

City and Town

Navjeet K. Bal, Commissioner • Robert G. Nunes, Deputy Commissioner & Director of Municipal Affairs



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Please consider the environment
before printing this newsletter.



CPA State Match Update

**Zack Blake, Project Manager and Financial Management Analyst,
Municipal Databank and Technical Assistance Bureau**

On October 15, 2008, 127 communities received a total of \$54,614,430 in Community Preservation Act (CPA) state matching funds. Since 2002, CPA has served as a valuable tool for cities and towns in their efforts to protect open space, preserve historic resources, provide affordable housing and create recreational opportunities. Indicative of the program's success is that to date over \$626.6 million has been raised in total state and local CPA funds and, as reported by the [Executive Office of Energy and Environmental Affairs](#), nearly 3,000 individual community projects have been financed through the program.

Under the provisions of CPA, participating communities adopt a surcharge of any amount up to a maximum of three percent on real estate tax bills. The state matches the local contribution through dollars generated by a surcharge on recording an instrument or municipal lien certificate at the Registry of Deeds. These receipts are deposited in the state Community Preservation Trust Fund. Cities and towns can appropriate CPA funds for:

- Acquisition, creation and preservation of open space;
- Acquisition, preservation, rehabilitation and restoration of historic resources;
- Acquisition, creation and preservation of land for recreational use;
- Creation, preservation and support of community housing; and,

- Rehabilitation or restoration of open space, land for recreational use and community housing that is acquired or created using CPA monies.

The program requires that participating communities reserve or expend at least 10 percent of the annual revenues in the fund every fiscal year for each of the three main purposes of the act: open space, historic resources and affordable housing. Up to five percent of annual fund revenue may be used to cover the annual administrative and operating costs of the local community preservation committee.

The state annually disburses funds from the Community Preservation Trust Fund to participating communities in October. This is done in up to three rounds unless state funds are sufficient to provide a 100 percent match distribution to all participating communities in the first round. As outlined in statute, the first or "match distribution" round disburses 80 percent of the balance in the state's Community Preservation Trust Fund to all CPA participating communities in direct proportion to their local CPA revenues. Only cities and towns that assess the maximum three percent surcharge are eligible to receive the additional distributions. Round two, the "equity round" distributes a portion of the remaining 20 percent of the trust fund balance by a formula that incorporates EQV per capita and population, and then ranks the communities. The intent is to provide aid to smaller less affluent communities. Lastly, a third round or

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DLS Commentary

The Group Insurance Commission (GIC) welcomed ten new groups into their municipal program this fall. To date, since passage of the

2007 Municipal Partnership Act enabling municipal entities to join the state's insurance program, 21 entities have joined GIC. With well over 351 eligible entities, 21 participants may not seem like a smashing success. However, word is trickling in from those communities not able or ready to join GIC that municipal GIC has forced insurance companies to sharpen their pencils. GIC's success can also be seen in the impact it has had on forcing the issue of contained health care costs for municipalities — and as a tool for municipalities to leverage.

This fall has also brought important developments and legal decisions on the Community Preservation Act, which is covered here in both our cover feature and Legal column. In October, for the first time, the CPA state trust fund was unable to make 100 percent matches to municipalities and the Act's legislative formula was used to determine percentage matches. A few weeks later, the Massachusetts Supreme Judicial Court upheld DLS' position on the expenditure of CPA monies on existing parks in Newton.

We hope you enjoy this two-month special double edition, which includes materials presented at the Municipal Finance Law Bureau's annual "What's New in Municipal Finance" Seminars.

Robert G. Nunes

Robert G. Nunes
Deputy Commissioner &
Director of Municipal Affairs

Best Practices

Less is More at Shawsheen Tech

**Carissa Karakaedos, Community Services,
Shawsheen Valley Technical High School**

BILLERICA — With the cost of health insurance rising throughout the country and spending in schools a constant concern, the faculty at Shawsheen Valley Technical High School is doing its best to alleviate both problems locally.

"Health insurance costs are eating most resources locally," said Shawsheen Superintendent-Director Charles Lyons. "It's the 'Pacman' of local budgets. From two thousand and two through two thousand and seven, health care costs in school districts in Massachusetts went up 74 percent on average while instructional spending went up only 13 percent, half the rate of inflation. Eighty four school districts saw their health care costs double."

Shawsheen's numbers aren't nearly as troublesome and the school's proactive approach to becoming healthier is a major reason why.

"We made a dramatic change in our health insurance program," Lyons said.

The school went from Blue Cross/Blue Shield Master Health Plus to a Blue Cross Preferred Provider Plan (PPO) beginning in September of 2007. The teachers and administrators have also been encouraged to participate in several wellness programs provided by the school. The change made an immediate impact, reducing the school's overall claims by 10 percent.

"We want to make teachers better consumers of the health-care program," Lyons said. "If we can reduce claims in the future, we can buy more textbooks, provide equitable salaries and secure safe athletic equipment."

Shawsheen's new health plan reimburses employees for participation in health clubs and Weight Watchers.

The school also provides several programs within its walls including a weekly yoga class, a "Walking at Work" group, several activities in the school's swimming pool, an in-house Weight Watchers group and use of its state-of-the-art fitness facility.

The Weight Watchers program has been a success. From January to June last

After health care costs at the school rose only 2 percent from 2007 to 2008, there was no increase at all this year.

year, 37 members of the faculty and staff combined to lose almost 500 pounds.

The walking group attracted 50 participants who wore pedometers throughout the day. The employee who walked the most was awarded a gift certificate to a sporting goods store.

In the school's new pool, a "Splish Splash" program is offered three mornings a week at 6 a.m. for lap swimming, aqua walking and jogging and water aerobics.

The fitness center is equipped with weights, cardiovascular equipment and an aerobics studio.

Shawsheen also annually hosts a Health Day where experts in the health care industry talk to teachers about nutrition and fitness through body-fat testing, blood screenings and information about stress reduction. In all, employees go through five different stations under the supervisions of Blue Cross/Blue Shield doctors.

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Legal

SJC Says No to Park Improvements with CPA Money

James Crowley Esq., Bureau of Municipal Finance Law

Is it permissible to use Community Preservation Act (CPA) funds to improve existing parks? The Supreme Judicial Court said no in the anticipated decision of *Seideman v. City of Newton*, 452 Mass. 47 (2008).

Voters in Newton accepted the CPA in November 2001. Pursuant to the enabling statute, a CPA Committee (Committee) was established to make spending recommendations to the city's legislative body, the Newton Board of Aldermen (Board). In 2006 the Board at the request of the Committee approved the use of \$765,825 in CPA funds for projects at two public parks, Stearns Park and Pellegrini Park. These parks had been in operation before the city's adoption of the CPA. Stearns Park consisting of 3.5 acres had both active and passive uses. The 4.5 acre Pellegrini Park contained active recreation facilities. With the appropriated CPA funds, Newton's Park and Recreation Department planned to build new tennis courts, relocate basketball courts, add landscaping and fences, install fountains and lighting, and construct bleachers.

Upon learning of the appropriation, ten taxpayers in Newton brought suit under M.G.L. Ch. 40 § 53 to enjoin the city from spending CPA money for these park projects. A Superior Court judge in September 2007 agreed that the proposed use of the CPA funds did not comply with any authorized uses set forth in the legislation, M.G.L. Ch. 44B, and the plaintiffs were entitled to summary judgment. The City of Newton thereupon appealed and the Supreme Judicial Court granted direct appellate review.

The Supreme Judicial Court held that its decision turned on the interpretation of M.G.L. Ch. 44B § 5(b)(2). It allows in pertinent part for CPA funds to be used "for the acquisition, creation and preservation of land for recreational use; and for the rehabilitation or restoration of land for recreational use that is acquired or created as provided in this section", i.e., acquired or created with CPA funds. Both the plaintiffs and the city agreed that the two parks were not acquired or created with CPA funds.

The City of Newton contended that the city was "creating" land for recreational use by allowing new recreational uses within existing parks, and by opening up the parks to new users including those with disabilities. Secondly, Newton argued that the proposed improvements to the parks should be considered "preservation" of the parks and not as ordinary maintenance which is an impermissible expenditure of CPA funds.

The Supreme Judicial Court in a unanimous opinion rejected the city's arguments. In the Court's view, "creation" of recreational land did not extend to establishing new recreational uses on existing parks. It said that "create" means to "bring into being" or "cause to exist" and the statute requires creation of land for recreational use, not the creation of new recreational uses on land already used for that purpose. It might apply, said the Court, where municipal land that is used for one purpose, or has ceased to exist for recreational use, is converted to a recreational use.

The Supreme Judicial Court also held that proposed park projects were not "preservation," which is defined in the CPA as protecting property from injury, harm or destruction. The projects included extensive improvements and upgrades intended to expand and enhance the quality and usage of the parks. The Court considered the planned work to be "rehabilitation" under the statute, which includes the remodeling or extensive repair of the parks so they will be functional for their intended use. Since "rehabilitation" is only permitted where the land was acquired or created with CPA money, the Court upheld the Superior Court and declared the proposed park improvement projects were an impermissible use of CPA money.

The Supreme Judicial Court's interpretation is in accord with a 2002 legal opinion issued by the Division of Local Services (DLS) regarding allowable use of CPA money for recreational projects. In that opinion, DLS also took the position that CPA funds could not be used to replace or install equipment or amenities or make other improvements that expanded or enhanced the use of the recreational land not acquired or created with CPA funds.

While the Court's decision dealt with recreational land, the same interpretation would apply to projects for the improvement, enhancement or redevelopment of open space and community housing. The use of CPA funds for their rehabilitation is also limited by M.G.L. Ch. 44B § 5(b)(2) to those properties acquired or created with CPA funds. ■

CPA State Match Update continued from page 1

“surplus distribution” may be run at the discretion of the Commissioner of Revenue. The third round is also allocated based on the equity formula.

For FY2009 the distribution was based on a September 1, 2008 state trust fund balance of \$62,607,045 with \$50,085,636, or 80 percent, available for the first round match. The state match provided each of the 127 CPA communities with a matching grant equal to 67.6 percent of the amount raised locally. Because the state match was less than 100 percent of the \$74,067,985 collected locally, a second round distribution was required.

In this second round formula distribution, the remaining 20 percent state balance was divided by the number of participating communities in the pro-

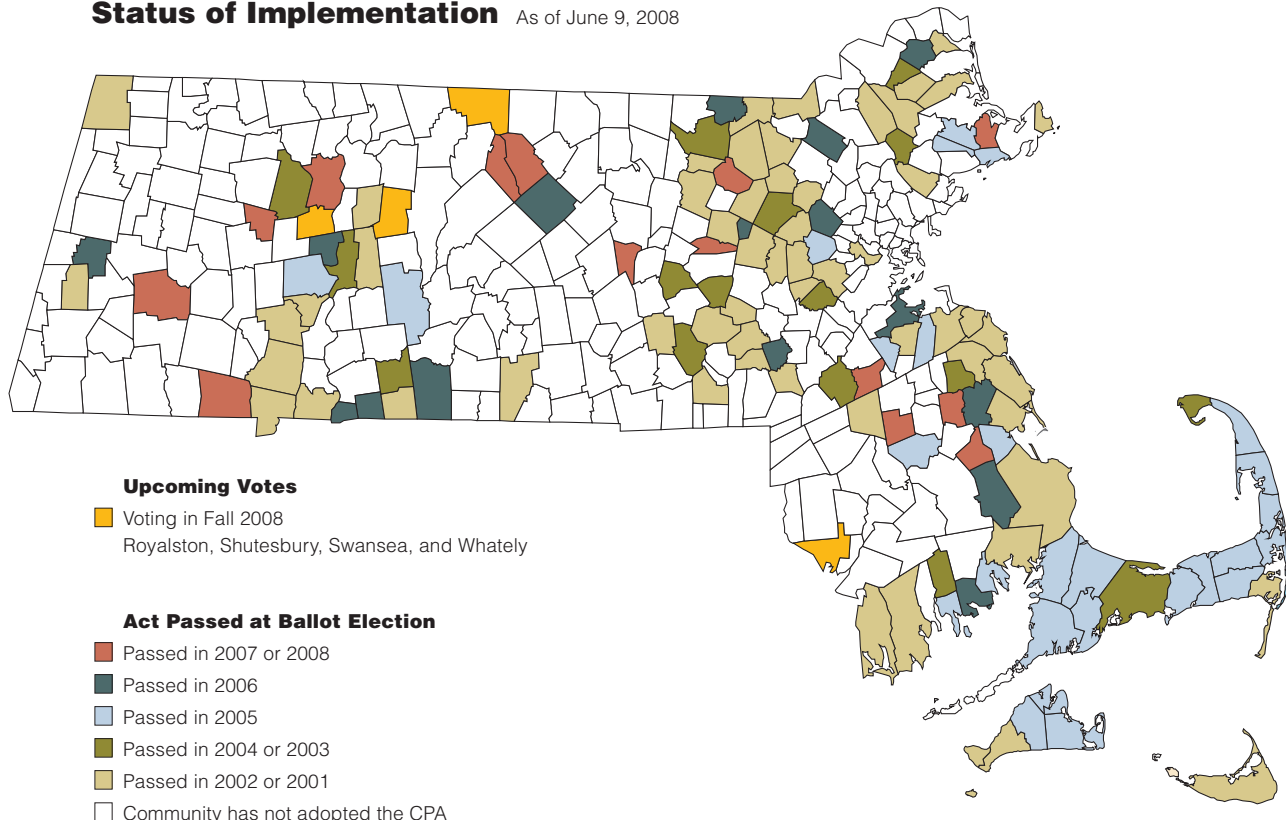
gram to yield a base figure of \$98,594 ($\$12,521,408 \div 127 = \$98,594$). Communities were then ranked based on EQV per capita and population. The two rankings were added together then divided by two, with communities divided into ten deciles. The base figure was then multiplied by percentages ranging from 50 to 140 percent depending on the community's assigned decile based on relative population and property wealth.¹ This second or equity round distributed an additional \$4,528,757 to the 71 communities that impose the maximum three percent surcharge leaving a balance of \$7,992,652 in the state trust fund. The second round distribution brought 23 of the 71 eligible communities total state matching funds to a 100 percent of the amount raised locally.

No third round distribution was made this year because of the low balance remaining in the state trust fund.

The intent behind the program's second and third round formula distributions is to provide greater reimbursement to communities with lower property wealth and smaller populations. For example, the Town of Templeton has a relatively low CPA rank of 295 (out of 351) which puts the town in the second decile. Templeton's equity distribution amount is therefore determined by multiplying the base figure of \$98,594 by 130 percent. Understanding that the maximum amount a city or town can receive in any year from the trust is capped at 100 percent of the total surcharge assessed for the previous fiscal year,

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Massachusetts Community Preservation Act Status of Implementation As of June 9, 2008



Note: Amherst and Chelmsford increased their surcharges from 0.5% to 1.5% in 2006 and 2007 respectively, and Lincoln from 1.5% to 3% in 2004.

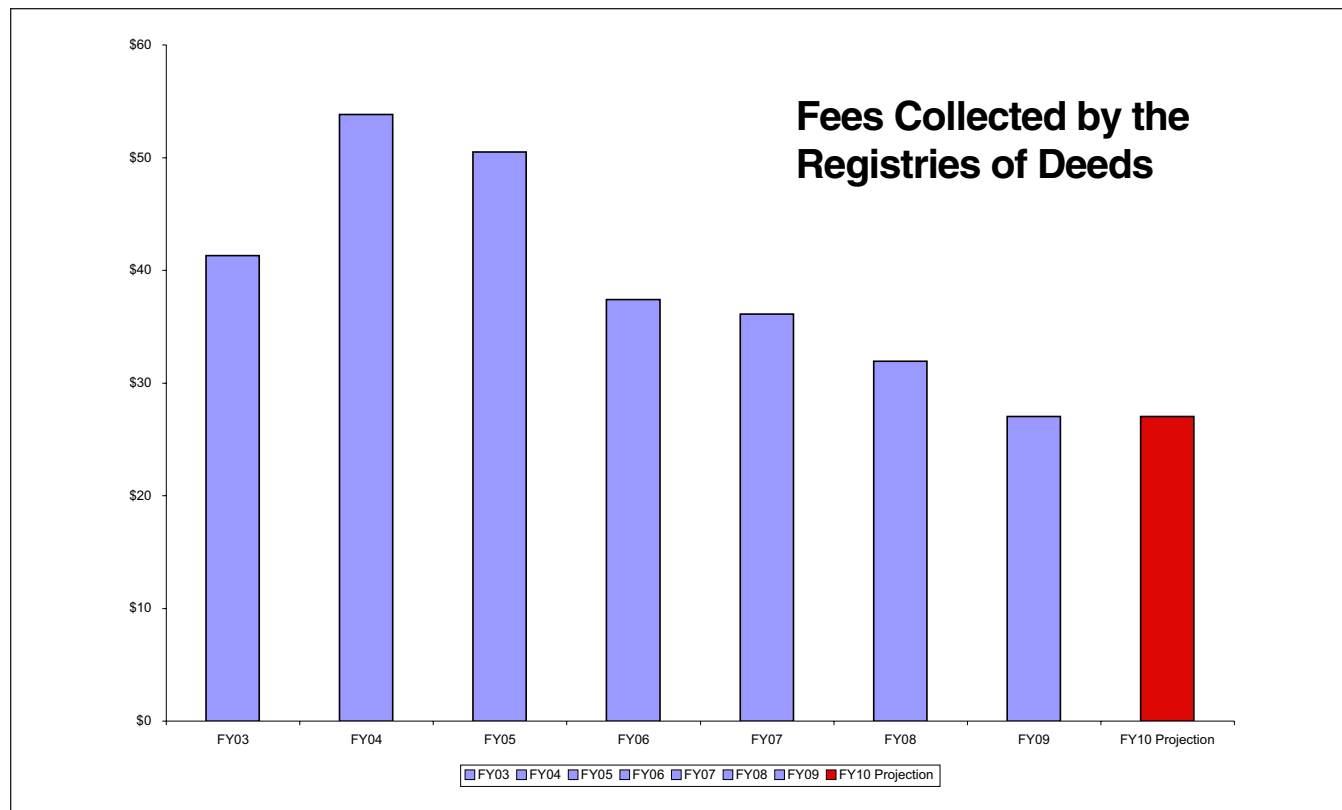


Chart 1

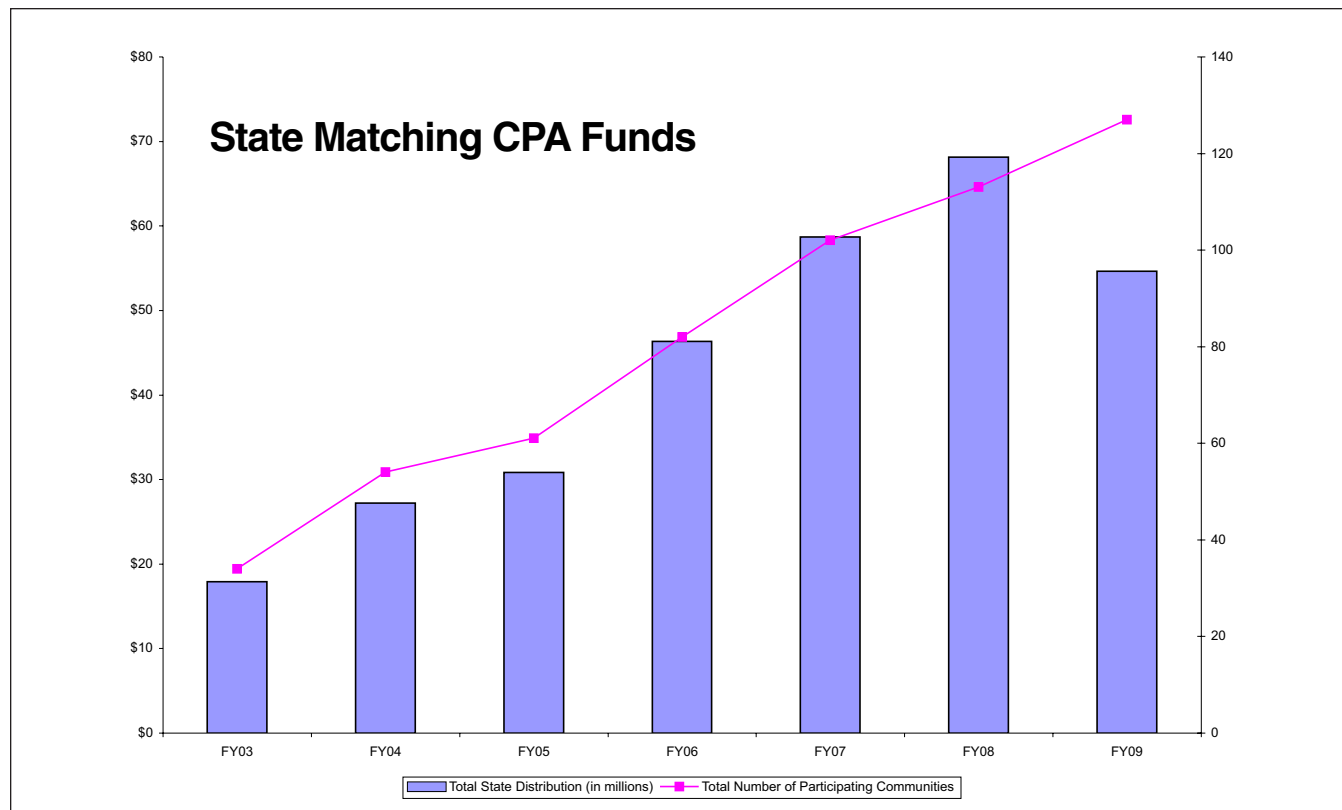


Chart 2

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CPA State Match Update continued from page 5

Templeton needed only \$38,232 to reach 100 percent.

The Town of Sudbury on the other hand has a comparatively high CPA rank of 31 which places the town in the tenth decile. Using the equity formula, Sudbury's distribution is calculated by multiplying the same base figure of \$98,594 by 50 percent. This calculation results in a total equity round distribution of \$49,297. Sudbury's large net surcharge, which totaled \$1,355,513 for FY2008, meant that they were not subject to the cap and received the full \$49,297; however, this second round only increased the town's state match to 71.6 percent.

Indicative of the program's success is that to date over \$626.6 million has been raised in total state and local CPA funds and ... nearly 3,000 individual community projects have been financed through the program.

Nevertheless, beginning in FY2009 most participating communities did not receive a 100 percent match from the state on the locally committed surcharge amounts as was past practice, because the state's CPA trust fund balance was not sufficient to provide such a match. This fiscal year therefore serves as a tipping point for participat-

ing communities, because after six consecutive years of a 100 percent or dollar-for-dollar state match on locally raised amounts through the single round distribution, a second round formula disbursement was triggered.

Largely a consequence of the program's success, the decline in state matching percentage can be attributed in part to the increasing participation in the CPA program, but also to the recent housing market volatility that resulted in a dramatic drop in Registry surcharge collections. This reduction in collections equated to a decline in the state's Community Preservation Trust Fund balance.

As appearing in Chart 1, surcharge fees collected by the Registries of Deeds have declined steadily from a peak in FY2003 of \$53.8 million to \$27 million in FY2008. Simultaneously, as more communities signed on, the state's distribution increased year over year to a peak in FY2008 of \$68.1 million. In addition, between FY2002 and FY2009 the number of communities participating in CPA has increased from 34 to 133. This dramatic infusion of new participants and steady decline in collections resulted in the precipitous drop in the state's Community Preservation Trust Fund balance.

While it has been long understood that the state would not be able to continue to provide a 100 percent match because of the increasing number of participating communities and reduced collections, the October 15, 2008 distribution sets precedent. In fact, based on recent trends, and assuming that

FY2009 local CPA surcharge collections rise to about \$80 million and that state registry collections equal the amount collected this past year (about \$27 million), the first round match in October 2009 is projected to be about 35 percent, as demonstrated in Chart 2.

The state match provided each of the 127 CPA communities with a matching grant equal to 67.6 percent of the amount raised locally.

Without changes to the CPA statute to provide an additional source of funds, it is unlikely the state will be able to provide a 100 percent state match to all participating communities again. While the future of CPA remains somewhat uncertain with many variables in play, it has been a tremendously successful program and an immensely valuable resource to cities and towns across the Commonwealth.

For additional information regarding CPA and the underlying data used in the equity round distribution visit www.mass.gov/dls. The website provides valuable resources and information including community preservation surcharge and state matching fund reports, various forms, applications and instructions, as well helpful CPA related links. ■

1. See DOR Informational Guideline Release (IGR) No. 00-209 December 2000 as amended.

Commonwealth Cities, Towns, Districts, Counties, and Authorities Can Now Use Certain Commonwealth Department Contracts

Operational Services Division

The Operational Services Division recently issued OSD Policy Guidance 09-13 — Use of Commonwealth Contracts by Commonwealth cities, towns, districts, counties, and authorities. This policy provides guidance on how cities and towns are now eligible to use certain contracts procured by Commonwealth Departments that issue procurements subject to the Commonwealth's procurement regulations, 801 CMR 21.00. The legal authority for this policy guidance is MGL c. 30B, Section 1 (c) and MGL c. 7, Section 22A, which allow cities and towns to use the Operational Services Division's (OSD) statewide contracts and certain department-issued contracts.

This inclusion of Department Contracts issued as "Multiple Department User" (as listed in the RFR) or "Open for Use Under Separate Contract Execution"

(as listed on Comm-PASS) represents a significant policy expansion by OSD which will increase access for cities and towns. Please note that any Cities and Towns opting to use these contracts must execute their own contract and any additional legal terms with the awarded vendor and will be responsible for any contract management, performance or payment issues relative to their contract. There are presently 422 contracts on Comm-PASS that are now available for use by cities and towns, authorities and counties as a result of this new policy.

Examples of goods and services now available through department contracts may include items such as Dump trucks, CPR Training Materials, Ambulance Services, several Health and Human Service Contracts and more are being added each day!

OSD's website at www.mass.gov/osd by clicking on the link for OSD "News and Updates", provides detailed guidance to Commonwealth Departments for posting department solicitations on Comm-PASS and guidance to cities and towns regarding what types of Commonwealth contracts can be used and how to identify those contracts on Comm-PASS.

If state departments have any questions regarding this policy, please contact Bill McAvoy, General Counsel in the Operational Services Division, at William.McAvoy@state.ma.us or at (617) 720-3327. If cities and towns have any questions regarding this policy, please contact Barbara Hansberry, General Counsel in the Office of the Inspector General, at Hansberryba@maoig.net or at (617) 727-9140. ■

Less is More at Shawsheen Tech continued from page 2

"The only way to manage costs is if we get members healthier," said Lyons. "The way to beat the system is to make members healthier by encouraging wellness."

The changes at Shawsheen have made an immediate impact.

After health care costs at the school rose only 2 percent from 2007 to 2008, there was no increase at all this year. Lyons expects another year of no increases next year.

"We're invested in developing a system that encourages staying healthy and I think we're doing a heck of a job," said Lyons. "And that's because of a highly-motivated work force that is becoming really well-educated."

For more information please contact Charles Lyons at 978-671-3602 or lyons@shawsheen.tec.ma.us. ■

Editor's note: this article represents the opinions and conclusions of the author and not those of the Department of Revenue.

Please remember to update the online Local Officials Directory so that both municipal and state officials have accurate contact information.



City and Town welcomes the submission of municipal Best Practice articles and ideas. To do so please contact us at: cityandtown@dor.state.ma.us or by calling 617-626-2377.

Community Preservation Act Matching Funds

Vendor name	Surcharge pct. adopted	FY03 CPA payment	FY04 CPA payment	FY05 CPA payment	FY06 CPA payment	FY07 CPA payment	FY08 CPA payment	FY09 CPA payment	Vendor name	Surcharge pct. adopted	FY03 CPA payment	FY04 CPA payment	FY05 CPA payment	FY06 CPA payment	FY07 CPA payment	FY08 CPA payment	FY09 CPA payment
Abington		0	0	0	0	0	0	0	Chesterfield		0	0	0	0	0	0	0
Acton	1.50%	0	473,465	534,467	568,164	652,082	690,028	473,581	Chicopee	3.00%	0	113,572	122,711	135,130	141,078	149,210	158,036
Acushnet	1.50%	0	0	81,176	93,233	104,766	115,634	80,036	Chilmark		0	0	0	0	0	0	0
Adams		0	0	0	0	0	0	0	Clarksburg		0	0	0	0	0	0	0
Agawam	1.00%	0	299,875	313,190	341,504	357,829	376,554	261,826	Clinton		0	0	0	0	0	0	0
Afford		0	0	0	0	0	0	0	Cohasset	1.50%	215,525	233,566	254,690	278,306	303,405	317,103	224,757
Amesbury		0	0	0	0	0	0	0	Colrain		0	0	0	0	0	0	0
Amherst	1.50%	125,258	144,081	154,264	183,797	209,271	220,612	233,919	Concord	1.50%	0	0	0	652,084	697,795	738,132	525,033
Andover		0	0	0	0	0	0	0	Conway	1.50%	0	0	0	43,520	44,080	47,055	30,954
Aquinnah	3.00%	34,323	34,669	46,034	51,867	53,296	58,703	63,293	Cummington		0	0	0	0	0	0	0
Arlington		0	0	0	0	0	0	0	Dalton		0	0	0	0	0	0	0
Ashburnham		0	0	0	0	0	0	0	Danvers		0	0	0	0	0	0	0
Ashby		0	0	0	0	0	0	0	Dartmouth	1.50%	0	277,769	342,981	381,760	415,180	440,946	318,248
Ashfield		0	0	0	0	0	0	0	Dedham		0	0	0	0	0	0	0
Ashland	3.00%	0	452,091	499,082	568,794	644,325	668,383	523,858	Deerfield	3.00%	0	0	0	0	0	0	152,880
Attleboro		0	0	0	0	0	0	0	Dennis	3.00%	0	0	0	758,958	785,852	864,018	632,203
Auburn		0	0	0	0	0	0	0	Dighton		0	0	0	0	0	0	0
Avon		0	0	0	0	0	0	0	Douglas		0	0	0	0	0	0	0
Ayer	1.00%	218,342	229,445	89,962	93,534	109,333	112,353	81,911	Dover		0	0	0	0	0	0	0
Barnstable	3.00%	0	0	0	2,278,821	2,359,154	2,460,379	1,765,694	Dracut	2.00%	449,547	478,059	502,489	527,457	564,011	589,671	419,472
Barre		0	0	0	0	0	0	0	Dudley		0	0	0	0	0	0	0
Becket	1.50%	0	0	0	0	0	0	0	Dunstable	3.00%	845,267	922,706	941,841	967,965	1,023,067	1,078,089	816,604
Bedford	3.00%	769,218	801,952	870,283	918,041	963,720	1,010,047	786,328	Duxbury	3.00%	0	0	0	0	0	0	0
Belchertown	1.50%	0	0	0	0	144,216	159,175	115,828	E. Bridgewater		0	0	0	0	0	0	0
Bellingham		0	0	0	0	0	0	0	E. Brookfield		0	0	0	0	0	0	0
Belmont		0	0	0	0	0	0	0	E. Longmeadow	1.00%	0	0	0	0	0	178,641	130,041
Berkley		0	0	0	0	0	0	0	Eastham	3.00%	0	116,232	174,773	206,753	236,446	266,556	373,786
Berlin		0	0	0	0	0	0	0	Easthampton	3.00%	0	484,857	560,666	625,268	643,135	682,539	423,562
Bernardston		0	0	0	0	0	0	0	Easton	3.00%	420,468	484,857	560,666	625,268	643,135	682,539	423,562
Beverly		0	0	0	0	0	0	0	Edgartown	3.00%	0	0	0	0	0	0	0
Billerica		0	0	0	0	0	0	0	Egmont		0	0	0	0	0	0	0
Blackstone		0	0	0	0	0	0	0	Erving		0	0	0	0	0	0	0
Blandford		0	0	0	0	0	0	0	Essex	0.50%	0	0	0	0	0	0	23,549
Bolton		0	0	0	0	0	0	0	Everett		0	0	0	0	0	0	0
Boston		0	0	0	0	0	0	0	Fairhaven	2.00%	0	0	0	0	247,177	264,438	192,487
Bourne	3.00%	0	0	0	784,861	862,766	898,816	680,858	Fall River		0	0	0	1,767,448	1,815,584	1,900,140	1,425,172
Boxborough		0	0	0	0	0	0	0	Falmouth	3.00%	0	0	0	0	0	0	0
Boxford	3.00%	351,294	375,808	403,714	425,503	464,894	483,256	414,728	Fitchburg		0	0	0	0	0	0	0
Boylston		0	0	0	0	0	0	0	Florida		0	0	0	0	0	0	0
Braintree	1.00%	0	382,802	406,556	436,040	463,959	478,397	334,946	Foxborough		0	0	0	0	0	0	0
Brewster	3.00%	0	0	0	571,315	597,364	623,561	487,457	Frammingham		0	0	0	0	0	0	0
Bridgewater	2.00%	0	0	0	0	359,734	384,874	271,380	Franklin		0	0	0	0	0	0	0
Brimfield		0	0	0	0	0	0	0	Frederick		0	0	0	0	0	0	0
Brockton		0	0	0	0	0	0	0	Gardner		0	0	0	0	0	0	0
Brookfield		0	0	0	0	0	0	0	Georgetown	3.00%	164,241	171,074	205,817	223,686	253,345	268,815	279,200
Brookline		0	0	0	0	0	0	0	Gill		0	0	0	0	0	0	0
Buckland		0	0	0	0	0	0	0	Gloucester		0	0	0	0	0	0	0
Burlington		0	0	0	0	0	0	0	Goshen	3.00%	0	0	0	0	0	0	46,893
Cambridge	3.00%	5,032,128	5,277,518	5,563,415	5,905,823	5,949,783	6,156,041	4,391,062	Gosnold		0	0	0	0	0	0	0
Canton		0	0	0	0	0	0	0	Grafton	1.50%	0	118,427	173,731	198,449	216,270	247,142	172,804
Carlisle	2.00%	214,533	238,618	262,655	270,723	282,735	297,471	250,303	Granby	1.50%	0	0	0	0	0	0	0
Carver	3.00%	0	0	0	0	0	326,142	321,477	Granville		0	0	0	0	0	0	0
Charlemont		0	0	0	0	0	0	0	Grt. Barrington		0	0	0	0	0	0	0
Charlton		0	0	0	0	0	0	0	Greenfield	3.00%	0	0	0	0	472,312	495,171	435,948
Chatham	3.00%	0	441,932	503,006	539,516	563,617	597,319	486,358	Groveland	3.00%	0	0	0	172,706	190,636	203,102	213,772
Chelmsford	1.50%	149,004	168,775	189,483	205,310	220,564	249,963	524,702	Hadley	3.00%	0	0	0	151,427	161,487	168,943	182,056
Chelsea		0	0	0	0	0	0	0	Hallifax		0	0	0	0	0	0	0
Cheshire		0	0	0	0	0	0	0	Hamilton	2.00%	0	0	0	0	287,075	306,399	218,638
Chester		0	0	0	0	0	0	0	Hamden	1.00%	22,955	29,650	31,117	38,372	44,128	46,603	35,067
									Hampton								

Table 1

Vendor name	Surcharge pct. adopted	FY03 CPA payment	FY04 CPA payment	FY05 CPA payment	FY06 CPA payment	FY07 CPA payment	FY08 CPA payment	FY09 CPA payment	FY08 CPA payment
Hancock		0	0	0	0	0	0	0	0
Hanover	3.00%	0	0	0	0	599,138	0	0	0
Hanson	1.50%	0	0	0	0	0	0	0	0
Hardwick	1.10%	105,154	109,946	119,516	127,763	140,647	111,122	118,378	92,136
Harwich	3.00%	0	0	0	840,098	869,128	679,025	0	0
Hatfield	3.00%	0	0	0	0	0	102,586	0	68,211
Haverhill		0	0	0	0	0	0	0	0
Hawley		0	0	0	0	0	0	0	0
Heath		0	0	0	0	0	0	0	0
Hingham	1.50%	430,979	443,740	483,468	530,396	592,087	448,874	0	153,056
Hinsdale		0	0	0	0	0	0	0	0
Holbrook		0	0	0	0	0	0	0	0
Holden		0	0	0	0	0	0	0	0
Holland		0	0	0	0	0	0	0	0
Holliston	1.50%	218,494	235,716	269,739	284,723	308,110	233,157	137,073	142,839
Holyoke		0	0	0	0	0	0	1,298,933	1,454,019
Hopedale	2.00%	0	0	0	0	0	0	0	0
Hopkinton	1.50%	378,973	420,112	513,429	532,714	584,113	446,697	1,303,584	1,253,524
Hubbardston		0	0	0	0	0	31,809	0	0
Hudson	1.00%	0	0	0	0	0	208,351	0	0
Hull		0	0	0	0	0	0	0	0
Huntington		0	0	0	0	0	0	0	0
Ipswich		0	0	0	0	0	0	0	0
Kingston	3.00%	0	0	0	0	416,612	462,790	0	0
Lakeville		0	0	0	0	0	0	396,341	513,222
Lancaster		0	0	0	0	0	0	1,830,295	1,899,326
Lanesborough		0	0	0	0	0	0	309,790	337,143
Lawrence		0	0	0	0	0	0	0	0
Lee		0	0	0	0	0	0	0	0
Leicester		0	0	0	0	0	0	1,021,824	1,051,237
Lenox	3.00%	0	0	0	0	0	0	0	0
Leominster	3.00%	0	45,776	47,522	56,315	63,691	73,516	1,585,478	1,830,295
Lexington	3.00%	0	0	0	0	2,556,362	1,927,708	250,063	309,790
Leyden		0	0	0	0	0	0	0	0
Lincoln	3.00%	0	203,365	220,879	461,436	500,519	420,180	886,192	1,021,824
Littleton	1.00%	0	0	0	0	0	0	0	0
Longmeadow	1.00%	0	0	0	0	0	0	0	0
Lowell		0	0	0	0	0	0	0	0
Ludlow		0	0	0	0	0	0	0	0
Lunenburg		0	0	0	0	0	0	0	0
Lynn		0	0	0	0	0	0	0	0
Lynnfield		0	0	0	0	0	0	0	0
Malden		0	0	0	0	0	0	0	0
Manchester	0.50%	0	0	0	0	65,575	48,794	0	0
Mansfield		0	0	0	0	0	0	0	0
Marblehead		0	0	0	0	0	0	0	0
Marion	2.00%	0	0	0	0	202,586	150,380	381,502	490,281
Marlborough		0	0	0	0	0	0	0	0
Marshfield	3.00%	545,152	621,322	705,842	777,289	832,961	692,555	0	0
Mashpee	3.00%	0	0	0	851,270	886,334	714,759	0	0
Matapoisett	1.00%	0	0	0	0	0	83,616	0	0
Maynard	1.50%	0	0	0	0	0	115,167	0	0
Medfield		0	0	0	0	0	0	0	0
Medford		0	0	0	0	0	0	0	0
Medway	3.00%	297,557	369,747	389,821	457,682	516,198	451,252	0	0
Melrose		0	0	0	0	0	0	0	0
Mendon	3.00%	0	0	156,374	163,634	184,764	210,749	1,081,593	1,095,674
Merrimac		0	0	0	0	0	0	0	0
Methuen		0	0	0	0	0	0	0	0
Middleborough		0	0	0	0	0	0	0	0
Middlefield		0	0	0	0	0	0	0	0
Middleton	1.00%	0	0	0	0	0	0	109,686	128,026
Milford		0	0	0	0	0	0	0	0
Milbury		0	0	0	0	0	0	0	0
Millis	1.00%	0	0	0	0	0	0	0	0
Millville		0	0	0	0	0	0	0	0
Milton		0	0	0	0	0	0	0	0
Monroe		0	0	0	0	0	0	0	0
Monson	3.00%	0	0	0	0	0	0	0	0
Montague		0	0	0	0	0	0	0	0
Monterey		0	0	0	0	0	0	0	0
Montgomery		0	0	0	0	0	0	0	0
Mt. Washington		0	0	0	0	0	0	0	0
Nahant	3.00%	0	0	0	0	0	0	129,606	137,073
Nantucket	3.00%	0	0	0	0	0	0	1,198,320	1,298,933
Natick		0	0	0	0	0	0	0	0
Needham	2.00%	0	0	0	0	0	0	0	0
New Ashford		0	0	0	0	0	0	0	0
New Bedford		0	0	0	0	0	0	0	0
New Braintree		0	0	0	0	0	0	0	0
New Marlborough		0	0	0	0	0	0	0	0
New Salem		0	0	0	0	0	0	0	0
Newbury		0	0	0	0	0	0	0	0
Newburyport	2.00%	0	0	0	0	0	0	480,381	513,222
Newton	1.00%	0	0	0	0	0	0	1,899,326	1,973,967
Norfolk	3.00%	0	0	0	0	0	0	337,143	404,985
N. Adams		0	0	0	0	0	0	0	0
N. Andover	3.00%	0	0	0	0	0	0	1,051,237	1,125,960
N. Attleborough		0	0	0	0	0	0	0	0
N. Brookfield		0	0	0	0	0	0	0	0
N. Reading		0	0	0	0	0	0	0	0
Northampton	3.00%	0	0	0	0	0	0	0	0
Northborough	1.50%	0	0	0	0	0	0	327,561	353,136
Northbridge		0	0	0	0	0	0	0	0
Northfield		0	0	0	0	0	0	0	0
Norton		0	0	0	0	0	0	0	0
Norwell	3.00%	0	0	0	0	504,055	0	634,135	674,734
Norwood		0	0	0	0	0	0	0	0
Oak Bluffs	3.00%	0	0	0	0	0	0	368,308	386,785
Oakham		0	0	0	0	0	0	0	0
Orange		0	0	0	0	0	0	0	0
Orleans	3.00%	0	0	0	0	0	0	434,981	470,249
Oris		0	0	0	0	0	0	0	0
Oxford		0	0	0	0	0	0	0	0
Palmer		0	0	0	0	0	0	0	0
Paxton		0	0	0	0	0	0	0	0
Peabody	1.00%	0	0	0	0	442,846	0	550,595	582,110
Pelham		0	0	0	0	0	0	0	0
Penbrooke	1.00%	0	0	0	0	0	0	0	0
Pepperell		0	0	0	0	0	0	0	0
Peru		0	0	0	0	0	0	0	0
Petersham		0	0	0	0	0	0	0	0
Phillipston	3.00%	0	0	0	0	0	0	0	0
Pittsfield		0	0	0	0	0	0	0	0
Plainfield		0	0	0	0	0	0	0	0
Plainville		0	0	0	0	0	0	0	0
Plymouth	1.50%	0	0	0	0	0	0	1,197,325	1,258,952
Plympton	1.50%	0	0	0	0	0	0	0	0

Table 1

Vendor name	FY03 CPA payment	FY04 CPA payment	FY05 CPA payment	FY06 CPA payment	FY07 CPA payment	FY08 CPA payment	FY09 CPA payment	Surcharge pct. adopted	Vendor name	FY03 CPA payment	FY04 CPA payment	FY05 CPA payment	FY06 CPA payment	FY07 CPA payment	FY08 CPA payment	FY09 CPA payment
Princeton	0	0	0	0	0	0	0	3.00%	Tyngsborough	0	260,994	310,487	328,691	357,681	375,208	357,231
Provincetown	0	0	0	281,309	312,081	326,013	0	3.00%	Tyngsboro	0	0	0	0	0	0	0
Quincy	0	0	0	0	0	1,122,761	761,415	3.00%	Upton	0	0	177,832	223,744	241,693	251,203	275,221
Randolph	0	0	0	0	486,043	522,236	366,741	3.00%	Uxbridge	0	0	0	0	0	0	0
Raynham	0	0	0	0	0	0	0	3.00%	Wakefield	0	0	0	0	0	0	0
Reading	0	0	0	0	0	0	0	3.00%	Wales	0	0	0	0	0	0	0
Rehoboth	0	0	0	0	0	0	0	2.00%	Walpole	0	0	0	0	0	0	0
Revere	0	0	0	0	0	0	0	3.00%	Waltham	0	0	0	0	0	0	0
Richmond	0	0	0	0	0	0	0	3.00%	Ware	0	0	0	0	0	0	0
Rochester	0	0	0	0	0	0	0	3.00%	Wareham	0	322,305	349,938	436,112	519,385	540,480	442,642
Rockland	0	0	0	0	0	0	0	3.00%	Warren	0	0	0	0	0	0	0
Rockport	0	239,902	299,695	330,388	342,760	319,086	325,227	3.00%	Wareham	0	0	0	0	0	0	0
Rowe	0	0	0	0	0	0	0	3.00%	Watertown	0	0	0	0	0	0	0
Roxbury	199,992	214,246	226,855	238,895	256,382	264,974	289,341	1.50%	Watertown	0	0	0	0	0	0	0
Royalston	0	0	0	0	0	0	0	3.00%	Wayland	0	432,175	447,456	465,413	526,703	577,711	401,077
Russell	0	0	0	0	0	0	0	3.00%	Webster	0	0	0	0	0	0	0
Rutland	0	0	0	0	0	0	0	3.00%	Wellesley	0	511,283	559,717	586,852	640,420	710,976	510,994
Salem	0	0	0	0	0	0	0	3.00%	Wellesley	0	0	0	290,133	308,324	332,702	311,144
Salisbury	0	0	0	0	0	0	0	3.00%	Westfield	0	0	0	0	0	0	0
Sandwich	0	0	0	0	0	0	0	3.00%	Westford	0	924,436	1,005,454	1,078,627	1,137,231	1,190,322	885,461
Saugus	0	0	0	1,042,173	1,132,717	1,176,759	872,536	2.00%	Weston	0	0	0	0	0	0	0
Savoy	0	0	0	0	0	0	0	1.00%	Weston	0	0	0	0	0	0	0
Scituate	0	632,644	686,222	721,362	785,869	843,940	683,297	3.00%	Westport	0	0	0	0	0	0	0
Seekonk	0	0	0	0	0	0	0	3.00%	Westwood	0	0	0	0	0	0	0
Sharon	0	0	0	0	315,293	333,180	241,064	3.00%	Weymouth	0	0	0	0	0	0	0
Shelfield	0	0	0	0	0	0	0	3.00%	Whately	0	0	0	0	0	0	0
Shelburne	0	0	0	0	0	0	0	1.00%	Whitman	0	0	0	0	0	0	0
Sherborn	0	0	0	0	0	0	0	3.00%	Williamstown	0	0	0	0	0	0	0
Shirley	0	0	0	0	0	0	0	3.00%	Winchester	0	0	0	0	0	0	0
Shrewsbury	0	0	0	0	0	0	0	3.00%	Windsor	0	0	0	0	0	0	0
Shutesbury	0	0	0	0	0	0	0	3.00%	Winthrop	0	0	0	0	0	0	0
Somerset	0	0	0	0	0	0	0	3.00%	Woburn	0	0	0	0	0	0	0
Somerville	0	0	0	0	0	0	0	3.00%	Worcester	0	0	0	0	0	0	0
S. Hadley	0	0	0	0	0	0	0	3.00%	Worthington	0	0	0	0	0	0	0
Southampton	57,597	65,475	85,347	99,960	114,680	129,942	135,411	3.00%	Wrentham	0	0	0	0	0	0	0
Southborough	0	0	188,653	202,990	212,542	229,176	154,952	3.00%	Yarmouth	0	0	0	0	0	0	0
Southbridge	0	0	0	0	0	0	0	3.00%	Total	17,854,420	27,161,342	30,822,218	46,337,391	58,666,783	68,131,814	54,614,430
Southwick	0	0	140,911	155,493	186,921	213,948	224,425	3.00%								
Spencer	0	0	0	0	0	0	0	3.00%								
Springfield	0	0	0	0	0	0	0	3.00%								
Sterling	0	0	0	0	0	0	0	3.00%								
Stockbridge	0	63,672	72,980	101,571	110,902	125,395	139,520	3.00%								
Stoneham	0	0	0	0	0	0	0	1.50%								
Stoughton	0	0	0	0	0	0	0	3.00%								
Stow	241,692	270,419	302,236	331,284	364,777	390,888	369,084	3.00%								
Sturbridge	167,720	188,282	213,239	271,939	295,919	323,526	327,012	3.00%								
Sudbury	0	1,030,840	1,090,772	1,105,972	1,248,806	1,307,615	965,898	3.00%								
Sunderland	0	0	0	0	0	0	0	3.00%								
Sutton	0	0	0	0	0	0	0	3.00%								
Swampscott	0	0	0	0	0	0	0	3.00%								
Swansea	0	0	0	0	0	0	0	3.00%								
Taunton	0	0	0	0	0	0	0	3.00%								
Templeton	0	0	0	0	0	0	0	3.00%								
Tewksbury	0	0	0	0	0	527,848	371,095	3.00%								
Tisbury	0	0	0	0	286,756	323,223	312,865	3.00%								
Tolland	0	0	0	0	0	0	0	3.00%								
Topsfield	0	0	0	0	0	0	0	3.00%								
Townsend	0	0	0	0	0	0	0	3.00%								
Turo	0	0	0	246,726	269,955	275,795	281,388	3.00%								

Table 1

What's New in Municipal Law

Special Section



Attorneys Chris Hinchey, Mary Mitchell and James Crowley lead workshops at the What's New in Municipal Law seminar.

Highlights from the 2008 Municipal Law Seminars

Section Courtesy of the Bureau of Municipal Law

Over 360 local officials attended the 23rd annual Municipal Law Seminars that were held at the Log Cabin in Holyoke on September 26 and at Lantana's in Randolph on October 3. Making morning presentations on legislation and agency decisions as well as court and Appellate Tax Board decisions were Municipal Finance Law Bureau attorneys Kathleen Colleary, chief,

Gary Blau, James Crowley, Christopher Hinchey, Mary Mitchell and Daniel Murphy. In the afternoon the attorneys led three interactive workshops on tax assessment and collection issues, enterprises and special revenues, and compensation benefit and employment issues. *City & Town* has selected several significant presentations for publication in this issue for those of you who

were not able to attend "What's New in Municipal Law." The complete set of booklets provided to participants is available electronically at DLS's website, including those from the afternoon workshops. We hope you find this special edition helpful and we look forward to seeing many of you next fall at the 24th annual Municipal Law Seminar.

Inside This Special Section

Workshop A: Tax Assessment and Collection Issues	12
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Smoking croutons in the kitchen drew the Holyoke Fire Department; quick work by their team and the Log Cabin's management allowed the seminar to continue after only a short delay.

Workshop A

Forest Land — Chapters 61, 61A and 61B

Case Study

By way of background, Chapters 61, 61A and 61B of the General Laws provide special property tax classifications for qualifying forest, agricultural or horticultural, and recreational or natural open lands. A landowner must apply for the special classifications with the local board of assessors and, if approved, the land will qualify for reduced property tax assessments. These reduced property assessments result from the land being assessed based exclusively on its agricultural or horticultural “use” value, and not on its full and fair cash valuation at its highest and best use. There are provisions in each of the three statutes that require, in certain circumstances, that a landowner pay a “penalty tax” when land that has been in the program is sold for or changed to a non-qualifying use. Also, in certain circumstances, the city or town may have an option to purchase the land if it is to be sold for or converted to non-qualifying uses.

Forest land classified under G.L. c.61, once classified, will remain classified for the duration of its 10 year state forester's certification without the need to reapply each year to the board of assessors. Farmland and recreational land under G.L. c. 61A and 61B is classified on an annual basis and requires a timely application to the board of assessors for each fiscal year.

In order for forest land to qualify for the c.61 special property tax classification the land must consist of at least 10 acres of contiguous land under the same ownership and the owner must obtain the state forester's certification that the land is being managed pursuant to an approved 10 year forest management plan. The state forester has the sole responsibility for the review and certification of the land as to qualifying forest use. (The Forestry Of-

fice of the Department of Conservation and Recreation should be contacted for more information in this regard.)

This fall in the assessors' office, in addition to all the regular forest, farm and recreational land applications, you have received 2 new applications for C. 61, Forest Land classification. One is for Parcel A, and it was delivered to Town Hall on Saturday morning, September 27, 2008. The other is for Parcel B and it was received in the assessors' office on Monday, October 6, 2008.

Question 1: Is the Parcel A application timely?

Question 2: Is the Parcel B application timely?

If FY 2010 is a revaluation year, can the Parcel B application be filed late?

If late for c.61, does the taxpayer have any options for FY 2010?

Chapter 61 requires that a landowner begin the application process more than a full year before the first day of the tax year for which classification is sought. However, once classified, the classification continues for a full 10 year period. (Unlike c. 61A and c. 61B, which require annual applications.) A landowner must start the process by submitting an application containing the information and materials prescribed by the State Forester to the State Forester prior to July 1 a year before the July 1 start of the tax year. (A June, 2008 application to the SF would be for classification starting on July 1, 2009, which is FY 2010.) If after review the State Forester approves the forest management plan and issues a certificate, the landowner must submit an application for c. 61 classification (Form CL-1 and CL-1(61) together with the state forester's certification and a copy of the forest management plan to

the local board of assessors prior to October 1. (9 months prior to the start of the tax year for which classification is sought, e.g., prior to October 1, 2008 for FY 2010.) If the application is in order and approved by the board of assessors, the land is classified under c. 61 for January 1 and assessed as classified forest land for the ensuing tax year. In the example, for January 1, 2009 and FY 2010, which commences on July 1, 2009. Once again, while the application process covers more than a year, upon classification the land will continue in classification for 10 tax years without further classification, unless removed for non-compliance.

Question 3: If the assessors find that everything is in order for Parcel A, what forms are they then working with?

For notice of action to the taxpayer, please see Form CL-2.

C. 61 also requires that a statement of classification, which constitutes a lien upon the property, be filed at the Registry of Deeds. This is Form CL-3. While all property tax assessments constitute a lien on the property assessed by operation of law, c.61 requires that there be an actual filing of a written statement of classification in order for the lien to arise. All recording fees are the responsibility of the landowner, not the city or town. At such time as there are no further potential tax liabilities under c.61, a landowner will be entitled to a release of the lien.

Question 4: What is the appropriate disposition of the application for Parcel B?

Please see new Form CL-10.

continued on page 12

Forest Land — Chapters 61, 61A and 61B continued from page 11

Question 5: The owner of Parcel A has also included on his application 20 acres in Part B, Line 1(h), contiguous non-productive land. May this land qualify under c. 61?

Question 6: If Parcel A qualifies, what would its classification code be?

Question 7: The owners of Parcel A then wish to know how much they will save by being in C. 61. They ask what the valuation of their 40 acre parcel will be and what the tax rate will be? What can you tell them?

Significant changes were made by Ch. 394 of the Acts of 2006 with respect to the valuation and taxation of forest land classified under c. 61. These changes become fully effective for FY 2009 in all cities and towns.



Gary Blau

First, the forest products tax, or so-called “stumpage tax”, has been eliminated. Prior to amendment, c.61 required that an owner of classified forest land pay an annual products tax based on the amount of the products cut in the prior calendar year. The amount of the tax was computed by multiplying 8% times the “stumpage value” of the products cut from the classified land. This forest products tax was assessed in addition to the reduced “land” tax provided for under c. 61. (Each year, by

April 1, a board of assessors was required to send an owner of classified forest land a notice of their obligation to report their cuttings and pay the products tax. Annually, by May 1, the landowner was required to file a return with the assessors reporting the amount of forest products cut from the classified land in the prior calendar year. On the basis of the return and any other available information, the assessors would annually compute and assess the forest products tax.) **The products tax provisions were repealed by Ch. 394 and there is no longer a products tax beginning in FY 2009.**

The second major change in the c. 61 provisions relates to the valuation of classified forest land for purposes of the annual, reduced “land” tax. Generally, c.61 provides for a preferential property tax assessment of classified forest land based solely upon its “use value” for forestry purposes, rather than at “full and fair cash valuation” based upon the property’s highest and best use. Prior to amendment, c.61 prescribed that this forest “use” value be computed by applying the commercial tax rate to 5% of the fair cash value of the property. In effect, the assessed value would be discounted by 95%. The resulting use value, however, could not be less than \$10 per acre. These original forest land valuation provisions have been removed and c. 394 has introduced a valuation methodology for c. 61 forest land similar to that for c.61A farmland. **Beginning with FY 2009, the special land tax assessed under the provisions of c. 61 will be determined for classified forest land by the same process that is used under c.61A for classified farmland. Under c.61A, the Farmland Valuation Advisory Commission (FVAC) considers the farm “use” value of land in the Commonwealth and annually determines a range of agricultural and horticultural use values on a per acre basis for the various categories of classified farmland. The recommended FVAC farmland values are**

published annually and used by local boards of assessors, together with their knowledge, judgment and experience regarding farmland values, in making c. 61A assessments.

C. 394 makes this same process applicable to c. 61 forest land commencing in FY 2009. To this end, Ch. 394 first added the Commissioner of the Department of Conservation and Recreation to the FVAC to provide additional expertise and experience with respect to the forestry industry and the value of land in forestry use. Ch. 61 was also amended so as to clearly provide that forest land classified under Ch. 61 would be assessed solely on the basis of its value for forest production purposes. Finally, the law now provides that the FVAC will issue annual recommended ranges of value for classified forest land to be used by local assessors in the same manner as the FVAC farmland values are used for agricultural or horticultural land classified under C. 61A. In February of 2008, the FVAC for the first time included in their annual recommendations value ranges for classified forest land.

Again, the repeal of the forest products (stumpage) tax and the implementation of the new forest land valuation methodology will begin for FY 2009 (July 1, 2008 through June 30, 2009).

The recent amendments to c. 61 also added a local acceptance provision that would allow a community to tax classified forest land at the class two, open space tax rate instead of the class three, commercial tax rate that is prescribed in the law. In communities with split tax rates, the commercial tax rate is generally higher than the tax rate that is applicable to properties in the class one, residential and the class two, open space classes. If a split rate community accepts the new “open space” provision, land classified under c. 61A will be taxed at a lower tax rate applicable to open space parcels. (The acceptance of this provision will not affect the

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Forest Land — Chapters 61, 61A and 61B continued from page 12

assessment of residences, residential land or buildings situated on the land.)

Question 8: Thereafter, in FY 2012 lets say, the owners of Parcel A sell 20 acres of their c. 61 forest land for a sub-division. What is their penalty tax exposure at that time with respect to the 20 acres?

The remaining acreage continues in the c. 61 classification pursuant to an amendment of their forestry certificate with the State Forester until it expires in FY 2011. Do the owners have any penalty tax exposure at that time if the land remains undeveloped?

If the owners of Parcel A had purchased the property in FY 2004 and had it classified under c. 61 for the first time starting in FY 2006, how would that affect the penalty tax considerations on the 20 acres going for development at this time?

Recent amendments also changed the so-called “penalty tax” provisions of c. 61. Prior to amendment, c.61 contained a “withdrawal penalty tax” provision that would require a penalty assessment upon a landowner not only due to a change in the use of the land, but also for simply withdrawing from the c. 61 program. This penalty tax could provide for the repayment of the program tax savings for each of the prior 10 years with interest on each year’s amount from that year’s payment dates up to the present date at a variable, compounded daily interest rate. The withdrawal penalty tax provisions were eliminated as of March 22, 2007, the effective date of Ch. 394, and new penalty tax provisions were substituted.

C. 61 now contains a similar “penalty tax” structure for classified forest land as is found in c. 61A for farmland and c. 61B for recreational land. This is a

structure with a more standard “roll-back” tax, or in certain circumstances a higher “conveyance tax” instead. As these are alternative taxes, when both would be applicable due to the circumstances, only the greater will be assessed. Importantly, while the roll-back or conveyance tax structure is now



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somewhat similar in the three chapters, each chapter’s provisions are *technically* different in language and effect and must be carefully reviewed, considered and applied in any particular circumstance.

Generally, the provisions of c. 61 now provide for a roll-back tax assessment when forest land is changed to a use or condition that would not qualify for classification under any one of the three “chapterland” laws, i.e., 61, 61A or 61B. The roll-back tax is essentially a repayment by the owner of any tax savings received under the program(s) for the most recent five year period. The roll-back computation also includes an interest component on each year’s re-

payment measured from the year saved up to the date of the roll-back payment at a 5% simple interest, annual rate. This 5 year roll-back tax with 5% simple interest is now similar to the roll-back tax provisions of c. 61A and c. 61B, and again, is now assessed upon a change in the qualifying use or condition of the land and no longer on the simple withdrawal from c. 61 classified status.

Now, an alternative penalty tax, the conveyance tax, may be assessed under Ch. 61 in certain circumstances, but only when it would be greater than the amount of the roll-back tax. The conveyance tax is triggered by either (1.) a sale for a non-qualifying use, or (2.) a conversion by the current owner to a non-qualifying use; and the **sale or conversion occurs within 10 years of the owner’s acquisition of the property.** The conveyance tax is computed by multiplying the sales price or the fair market value of the classified land (depending upon whether the activity is a sale or a conversion) by a conveyance tax rate that starts at 10% in the first year of ownership and steps-down by one percentage point per year over the first ten years of ownership. After this 10 year period has run, the conveyance tax will not be applicable for that ownership, and only roll-back tax exposure will remain. Ch. 61 contains a number of new conveyance tax provisions regarding family transfers, sales to continue a qualifying use, acquisitions by governmental or nonprofit conservation organizations, and a **“grandfather” exemption from the new conveyance tax provision for forest land classified for or before FY 2008**, and it is important that these provisions be carefully reviewed regarding the penalty tax consequences of any particular transaction relating to classified forest land. ■

CHAPTER LANDS COMPARISON

As Amended by Chapter 394 of the Acts of 2006

COMPARISON	CHAPTER 61 - FOREST LAND	CHAPTER 61 A AGRICULTURAL/HORTICULTURAL	CHAPTER 61B - RECREATIONAL LAND
QUALIFICATIONS	10 contiguous acres – Same ownership 10 year management plan certified by state forester Recertified every 10 years Timely application <i>c.394, no more fee to state. c.394, state forester has sole responsibility for determining land use, may include "accessory" land.</i>	5 acres, same ownership, "actively devoted" to A/H. 2 prior years A/H use. Gross sales in the regular course of business, starts at \$500 for initial 5 acres, \$5 per extra acre, and .50 for forest land. Additional, contiguous and non-productive land may qualify but only up to 100% of productive land. Forest land, certified by state forester, will qualify.	5 acres, same ownership, and: Condition - natural, wild, open or landscaped or Use-devoted to a recreational use as listed in the statute and available to the general public or to the members of a non-profit organization. <i>c. 394, adds "commercial horseback riding and equine boarding" c. 394 adds "managed forest" land with a state forester's certification.</i>
APPLICATION PROCEDURE	(prior to) JULY 1- application to state forester <i>c.394, prior to OCTOBER 1 (no longer September 1) certificate & plan submitted to assessors.</i> JAN 1- listed as classified JULY 1- taxation under Ch 61 commences	Annual Application by October 1 to Board of Assessors on Form CL-1 Revaluation year filing extension provided. Application deemed allowed if no action in 3 months	Annual Application by October 1 to Board of Assessors on Form CL-1. Revaluation year filing extension provided. Application disallowed if no action in 3 months.
RECORDING REQUIREMENTS	RECORD a statement of lien on Form CL-3 Collect recording fees Copies of lien to landowner and state forester.	RECORD a statement of lien on Form CL-3, if first application, after a lapse when not classified, or after a change of record ownership.	RECORD a statement of lien on Form CL-3, if first application, after a lapse when not classified, or after a change of record ownership.
APPEAL OF DETERMINATION	(on or before) DECEMBER 1- to state forester MARCH 1- forester's decision will issue APRIL 15- appeal to 3 person regional panel MAY 15- panel hearing Appeal to ATB or Superior Court within 45 days of notice of decision.	Collect all recording fees. Landowner may appeal a determination to: <i>c. 394, Board of Assessors within 30 days, (previously 60 days) of notice, then to Appellate Tax Board within 30 days of notice of decision or 3 months of application, whichever is later</i>	<i>c.394, Collect all recording fees.</i> landowner may appeal a determination to: Board of Assessors within 60 days of notice (not changed by c. 394), then to Appellate Tax Board within 30 days of notice of decision or 3 months of application, whichever is later
TAXATION	SPECIALIZED VALUATION <i>c. 394, new provisions begin for FY 2009.</i> <i>c. 394, Assessed at its FOREST "USE" VALUE. Values for forestland will now be published annually by the FV/AC, and be used as a guide. (After FY 2008, no longer any stampage tax)</i> Commercial rate (class 3) applied to Forest "USE" value. Buildings, residences and land accessory to their use are taxed at regular, full value.	SPECIALIZED VALUATION Assessed at its A/H "USE" VALUE. Values published annually by F.V.A.C., used as a guide. Commercial rate applied to A/H Use value. Buildings, residences and land accessory to their use are taxed at regular, full value. Change in ownership alone will not affect classification. <i>c. 394, "OPEN SPACE" local option. If city or town accepts c.61A, \$4A, classified farmland will be classified as "open space" and taxed at residential tax rate.</i>	SPECIALIZED VALUATION Assessed at its RECREATIONAL "USE" VALUE However, assessed "use" value may not exceed 25% of the full and fair cash value. Commercial rate applied to CH61B value. Buildings, residences and land accessory to their use are taxed at regular, full value. Change in ownership alone will not affect classification. <i>c. 394, "OPEN SPACE" local option. If city or town accepts c.61B, \$2A, classified recreational land will be classified as "open space" and taxed at residential tax rate.</i>

PENALTY TAXES	<p>c. 394, <u>replaces the prior withdrawal penalty tax plus compounded interest with alternative roll-back or conveyance tax provisions.</u></p> <p>c. 394, <u>Roll-back tax imposed upon a change to a non-qualifying use of the land.</u> c. 394, <u>A non-qualifying use means a use or condition that would not qualify under the definitions of either 61, 61A or 61B.</u> Roll-back recovery period is <u>FIVE (5) YEARS.</u> c. 394, <u>SIMPLE INTEREST at 5% over recovery period.</u></p> <p>c. 394, <u>Conveyance tax, imposed when sold for or converted to non-qualifying use (61, 61A or 61B) within 10 years of acquisition.</u> Tax = price or value x conveyance tax rate. C.T. rate 10% to 1% (rate decreases 1% per year of ownership.) <u>Only assessed if more than roll-back.</u></p> <p>c. 394, <u>"grandfather" exemption from conveyance tax for an owner in program for/before FY 2008.</u></p>	<p>Alternative taxes-only the greater will be imposed</p> <p>Roll-back tax imposed upon a change to a non-qualifying use. c. 394, <u>A non-qualifying use means a use or condition that would not qualify under the definitions of either 61, 61A or 61B.</u> Roll-back recovery period is <u>FIVE (5) YEARS.</u> c. 394, <u>SIMPLE INTEREST at 5% over recovery period.</u></p> <p>Roll-back tax for each year: TAX: Ch 59, full value taxes - Ch 61A, reduced A/H "use" taxes = the difference (with 5% interest)</p> <p>c. 394, <u>"grandfather" exemption from INTEREST on roll-back tax for a parcel classified for FY 2007 and still owned by 7/1/2006 owner or certain specified close relatives.</u></p> <p>Conveyance tax, c. 394, <u>imposed when sold for or converted to non-qualifying use (61, 61A or 61B) within 10 years of acquisition.</u> Tax = price or value x conveyance tax rate. C.T. rate 10% to 1% (rate decreases 1% per year of ownership.) <u>Only assessed if more than roll-back.</u></p>	<p>Alternative taxes-only the greater will be imposed.</p> <p>Roll-back tax imposed upon a change to a non-qualifying use. c. 394, <u>A non-qualifying use means a use or condition that would not qualify under the definitions of either 61, 61A or 61B.</u></p> <p>c. 394, <u>Roll-back recovery period is FIVE (5) YEARS.</u> (previously 10 years) c. 394, <u>SIMPLE INTEREST at 5% over recovery period.</u></p> <p>Roll-back tax for each year: TAX: Ch 59, full value taxes - Ch 61B, reduced rec. "use" taxes = the difference (with 5% interest)</p> <p>Conveyance tax, c. 394, <u>imposed when sold for or converted to non-qualifying use (61, 61A or 61B) within 10 years of first classification.</u> Tax = price or value x conveyance tax rate. C.T. rate 10% within first 5 years, 5% within years 6-10. <u>Only assessed if more than roll-back.</u></p>
APPEAL OF ASSESSMENT	<p>c. 394, <u>ABATEMENT-apply to Board of Assessors within 30 days (previously 60 days) of notice of tax</u> APPEAL TO A.T.B. within the later of 30 days of notice of decision, or 3 months of application.</p>	<p>c. 394, <u>ABATEMENT-apply to Board of Assessors within 30 days (previously 60 days) of notice of tax</u> APPEAL TO A.T.B.-within the later of 30 days of the notice of decision, or 3 months of application.</p>	<p>ABATEMENT-apply to Board of Assessors within 60 days of notice of tax. (not changed by c. 394) APPEAL TO A.T.B.-within the later of 30 days of the notice of decision, or 3 months of application.</p>
BETTERMENT AND SPECIAL ASSESSMENTS	<p>c. 394, <u>subject to assessment only to "pro-rata" extent improves forest use capability or provides personal benefit to the landowner. Assessment may be suspended without interest during forest use. Suspended amount due and payable upon a change in use of land.</u> not applicable</p>	<p>c. 394, <u>subject to assessment only to "pro-rata" extent improves A/H use capability or provides personal benefit to the landowner. Assessment may be suspended without interest during A/H use. Suspended amount due and payable upon a change in use of land.</u></p>	<p>c. 394, <u>subject to assessment only to "pro-rata" extent improves recreational use capability or provides personal benefit to the landowner. Assessment may be suspended without interest during recreational use. Suspended amount due and payable upon a change in use of land.</u> Indicates potential conveyance or roll-back tax liability. Must be issued within 20 days of request. \$6 charge. If recorded, fixes liability and payment terminates all liens.</p>
CERTIFICATE OF TAXES DUE	not applicable	Indicates potential conveyance or roll-back tax liability. Must be issued within 20 days of request. \$6 charge. If recorded, fixes liability and payment terminates all liens.	Indicates potential conveyance or roll-back tax liability. Must be issued within 20 days of request. \$6 charge. If recorded, fixes liability and payment terminates all liens.

MUNICIPALITY'S RIGHT OF FIRST REFUSAL: c. 394 makes significant changes to the "first refusal option" that applies when a landowner decides to sell classified land for a residential, commercial or industrial use, or convert it to such a use, and makes the option provision uniform in all three chapters. It also extends the operation of the first refusal option for one full tax year after a property is removed from classification. This protects the municipality's opportunity for acquisition in the event the landowner removes the land from classification and immediately decides to develop the land. It also spells out in greater detail than before the notices required, the definition of a bona fide offer and the appraisal procedures that apply in cases of conversion. The revised assignment provision now authorizes a city or town to assign its option to a nonprofit conservation organization or to the Commonwealth or any of its political subdivisions under the terms or conditions that the mayor or board of selectmen may consider appropriate, provided that no less than 70% of the land is maintained in forest, agricultural or horticultural, or recreational use.

Workshop B

Local Enterprises Enterprise and Special Revenue Fund Issues

Discussion Topics

Today's workshop will focus on special financing options available for local services of a proprietary nature. These are services provided to individual consumers in a manner similar to private business, *i.e.*, users are charged fees to cover all or a significant portion of the cost of providing the service.

What, if any, special financing options are available for the following proposals for new or expanded programs or for restructuring delivery of a current service, *e.g.*, revolving fund, offset receipts, enterprise fund, etc.? What factors would a community consider in deciding whether to use these options rather than budget the activity in the general fund?

Curbside Trash Pick-up Service — To date, the town has only had landfill drop-off service. The town has experienced substantial growth and many residents are now lobbying for the town to provide curbside trash collection. To help defray the cost, the town is considering implementing a Pay-As-You-Throw (PAYT) system for residential properties. It would charge for stickers that must be placed on trash bags or barrels and only trash in the specially marked bags or barrels would be picked up. All trash would continue to be deposited in the town landfill, which presently is estimated to close in 2025.

Public Water Supply System — The town supplies water to its commercial area and some residential areas and accounts for water revenues in an enterprise fund. It wants to extend the system into existing residential areas currently served by wells and into new residential areas as the town develops. In addition, the existing infrastructure is aging and needs to be replaced. It would like to dedicate connection fees, user fee surcharges or betterments charged new customers to pay for the system extensions and improvements. In the meantime given the age of the existing infrastructure, the water department needs to be able to fund emergency situations such as water main breaks.

Municipal Golf Course — The owner of a private golf course currently classified as recreational land under G.L. Chapter 61B notifies the town that the land is being sold for another purpose. Park and Recreation Department officials would like to see the town exercise its option to purchase the property and continue operations as a municipal course. However, some improvements are needed in the course first, and the town would have to finance both the purchase and improvements by borrowing. The proposal is considered viable only if the course can generate sufficient revenues to cover all current and future costs associated with its acquisition, improvement, operation and maintenance.

Parks and Recreation Facilities and Programs — The Parks and Recreation Department provides a full range of summer activities for adults and children including arts and crafts programs, special seasonal events and town tournaments, swimming programs, athletic programs such as softball, baseball and soccer, and special excursions to museums, local beaches and sporting events. The town is growing and the demand for these programs changes from year to year. Thus, it is not known at budget time the number of instructors, or amount of program supplies and equipment, that will be needed. The Recreation Director would like, however, to hire a full-time pool director-swimming coach next year to accommodate the increased use of the recreation center swimming pool. Participation fees are charged for all of these activities.

In addition to its parks and playgrounds under the control of the parks and recreation commission, where the town charges for permits and for participation in various town sponsored recreation activities, such as summer basketball and softball leagues, the town has several areas under the control of the conservation commission which generate revenue from parking and from the rental of bicycles and canoes by lessees of the town.

Ambulance Services — Currently, ambulance service in town is provided by the fire department. There are proposals to contract with a private ambulance company, or to operate the service with municipal personnel independently of the fire department.

Senior Citizen Bus Service — The Council on Aging has proposed running limited bus service to several senior citizen housing complexes in the town. It has not yet decided whether to contract with a private bus company or lease a bus and operate the service with municipal personnel. The council has been informed the town may qualify for a grant that will reimburse it for part of the operating costs. Modest fares will also be charged. It is expected that the fares and reimbursement will fully cover the cost of operating the service.

Harbor and Beach Facilities — A coastal town has several revenue generating facilities and programs connected with its coastal areas: a parking lot that serves a town beach and is under the control of the parks and recreation department; a summer swimming program run by the parks and recreation department; a boat ramp, a town wharf with boat slips and facilities for commercial operations, including a ferry and

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whale watch cruises, harbor mooring sites, all under the supervision of the harbor master, and a boating safety program run by the harbor master

Municipal Parking — To alleviate parking congestion downtown, the city plans to build a parking garage on a vacant lot it owns behind city hall. Currently, there are metered spaces on the main downtown streets. The construction will be financed by borrowing. The city plans to hire a contractor to operate the facility and provide security. It wants to use revenues from the garage and meters to construct, operate, maintain and repair the new garage.

ANALYZING SPECIAL FINANCING OPTIONS FOR LOCAL ENTERPRISES

QUESTIONS TO ASK IN ANALYZING SUITABLE OPTIONS SCOPE AND EXPENSES

- What department is responsible for operating the program or service?
- Is it a regular governmental function that must be provided regardless of demand?
- Do the expenses vary based with demand or are they fixed, e.g., salaries, debt service, etc.
- Is the program or service being carried out by municipal employees or by independent contractors?
- If by municipal employees, are they full or part-time?
- Does the program or service require capital expenditures?
- If so, how extensive are those expenditures and how would they be financed?

REVENUE SOURCE

- What is its relationship to the program or service being funded?
- Do the annual receipts vary with demand or are they fairly predictable?
- Is the level and timing of receipts sufficient to pay expenses as they come due?

IMPLEMENTATION REQUIREMENTS

What are the specific adoption, accounting, budgeting and reporting requirements of the proposed option?

Is town meeting/city council action required to implement it?

Does the fund balance close at year end or carry forward?

Does interest stay with the fund?

TREATMENT OF MUNICIPAL REVENUES

GENERAL FUND REVENUES (Estimated Receipts)

Unrestricted revenues, including property taxes, state aid and other local revenues available to support general government operations. Revenue belongs to the general fund unless otherwise provided by statute. G.L. c. 44, § 53.

SPECIAL REVENUE FUNDS

Particular revenues that are earmarked for and restricted to expenditure for specified purposes. Special revenue funds include receipts reserved for appropriation, revolving funds, grants from governmental entities and gifts from private individuals and organizations. Special revenue funds must be established by statute.

Receipts Reserved for Appropriation

Receipts from a specific revenue source that by law is accounted for separately from the general fund (segregated) and must be spent by appropriation. Examples are:

- Parking Meter Receipts — G.L. c. 40, §§ 22A–22C
- Sale of Real Estate — G.L. c. 44, § 63
- Waterways Improvement Fund — G.L. c. 60B, §§ 2(i) and 4 G.L. c. 40, § 5G
- Sale of Cemetery Lots — G.L. c. 114, § 15
- County Dog Fund — G.L. c. 140, § 172

Revolving Funds

Receipts from a specific revenue source that are accounted for separately (segregated) from the general fund and may be spent without appropriation to support the activity, program or service that generated the revenue. Examples are:

- Arts Lottery Council Fund — G.L. c. 10, § 58
- School Rental Receipts — G.L. c. 40, § 3
- Parks and Recreation Revolving Fund — G.L. c. 44, § 53D
- Departmental Revolving Fund — G.L. c. 44, § 53E?
- Planning/Zoning/Health Boards Consultants Fund — G.L. c. 44, § 53G
- Anniversary Celebration Fund — G.L. c. 44, § 53I
- Student Athletic and Activity Fund — G.L. c. 71, § 47
- Wetlands Protection Fund — G.L. c. 131, § 40 c. 43, § 218 of the Acts of 1997 c. 194, § 349 of the Acts of 1998

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TRUST AND AGENCY FUNDS

Fiduciary funds segregated from the general fund to account for assets held by the city or town in a trustee capacity or as an agent for individuals, private organizations, other governmental units, etc. These include expendable trust funds, non-expendable trust funds, pension trust funds and agency funds.

- Examples of Trust Funds are:
- Scholarship Fund — G.L. c. 60, § 3C
- Local Education Fund — G.L. c. 60, § 3C
- Educational/Instructional Materials Trust Fund — G.L. c. 71, § 20A
- Cemetery Perpetual Care Fund — G.L. c. 114, § 25
- Examples of Agency Funds are:
- Police Outside Detail Fund — G.L. c. 44, § 53C
- Student Activity Agency Account — G.L. c. 71, § 47
- Sporting License Receipts — G.L. c. 131, § 18
- County Dog License Receipts — G.L. c. 140, § 172

ENTERPRISE FUNDS

Funds segregated from the general fund to account for services financed and delivered in a manner similar to private enterprises where the intent of the municipality is that all costs, direct or indirect, of providing the goods or services be financed or recovered primarily through user charges. Where the service is not fully financed by fees, provides information about the level of general fund subsidy of the service. G.L. c. 44, § 53F? (formerly G.L. c. 40, § 39K).

APPROPRIATED SPECIAL PURPOSE FUNDS

Statutory funds to account for allocation of general revenues by the appropriating authority to particular purposes. Examples are:

- Reserve Fund — G.L. c. 40, § 5A (cities), G.L. c. 40, § 6 (towns)
- Stabilization Fund (unrestricted) — G.L. c. 40, § 5B
- Pension Reserve Fund — G.L. c. 40, § 5D
- Unemployment Compensation Fund — G.L. c. 40, § 5E
- Conservation Fund — G.L. c. 40, § 8C
- Overlay (annual accounts) — G.L. c. 59, § 25
- Overlay Surplus (balances) — G.L. c. 59, § 25

LIST OF SPECIAL FUNDS AND CITATIONS ENTERPRISE REVENUES

- Water Surplus — G.L. c. 41, § 69B
- Landfill/Trash Collection Charges — G.L. c. 44, § 28C(f)
- Landfill Closure Reserve — G.L. c. 44, § 28C (f)
- Enterprise Funds — G.L. c. 44, § 53F?
- Electric Light Receipts — G.L. c. 164, § 57

TEMPORARY FUNDS (Expire at Year's End)

- Reserve Fund — G.L. c. 40, § 5A (cities) G.L. c. 40, § 6 (towns)
- Free Cash — G.L. c. 59, § 23
- Overlay Surplus — G.L. c. 59, § 25

REVOLVING FUNDS (No appropriation needed)

- Arts Lottery Council Monies — G.L. c. 10, § 58
- School Lunch Fund — c. 548 of the Acts of 1948
- School Rental Receipts — G.L. c. 40, § 3
- Performance Bond Forfeitures (Up to \$100,000 by local option) — G.L. c. 41, § 81U
- Expedited Permitting — G.L. c. 43D, § 6(b)
- Police Special Detail — G.L. c. 44, § 53C
- Parks and Recreation Fund — G.L. c. 44, § 53D
- Departmental Revolving Fund — G.L. c. 44, § 53E?
- Planning/Zoning/Health Boards Consultants Fund — G.L. c. 44, § 53G
- Anniversary Celebration — G.L. c. 44, § 53I
- Affordable Housing Trust— G.L. c. 44, § 55C
- Culinary Arts Programs — G.L. c. 71, § 17A
- School Day Care Receipts— G.L. c. 71, § 26C
- Student Athletic and Activities — G.L. c. 71, § 47
- Student Activity Agency — G.L. c. 71, § 47
- Community Schools Programs — G.L. c. 71, § 71C
- Adult Continuing Education — G.L. c. 71, § 71E
- Use of School Property — G.L. c. 71, § 71E
- Non-Resident Students' Tuition — G.L. c. 71, § 71F
- METCO Reimbursements — G.L. c. 71B, § 12

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- Vocational Education Programs — G.L. c. 74, § 14B
- School Choice — G.L. c. 76, § 12B(O)
- Law Enforcement Trust — G.L. c. 94C, § 47
- Wetlands Protection Fund — G.L. c. 131, § 40 c. 43, § 218 of the Acts of 1997 c. 194, § 349 of the Acts of 1999
- Multi-Community Yard Waste Program — c. 179 of the Acts of 1993
- Millennium/Centennial Celebration — c. 59 of the Acts of 1998
- School Bus Advertising Receipts — c. 184, § 197 of the Acts of 2002
- Off-street Parking Receipts — G.L. c. 40, §§ 22B & 22C
- Commission on Disabilities Fund — G.L. c. 40, § 22G
- Bond Proceeds — G.L. c. 44, § 20
- State Highway and Water Pollution Funds — G.L. c. 44, § 53
- Insurance/Restitution Proceeds (up to \$20,000) — G.L. c. 44, § 53
- Lost School Books/Industrial Arts Supplies — G.L. c. 44, § 53
- Grants and Gifts — G.L. c. 44, § 53A
- Sale of Real Estate Proceeds — G.L. c. 44, § 63
- Community Preservation Fund — G.L. c. 44B, § 7
- Overlay — G.L. c. 59, §§ 25 & 70A
- Local Education Fund — G.L. c. 60, § 3C
- Scholarship Fund — G.L. c. 60, § 3C
- Low Income Seniors and Disabled Tax Relief Fund — G.L. c. 60, § 3D

**OTHER SPECIAL PURPOSE FUNDS
(Held-over from Year to Year)**

- Self-Insurance Health Fund — G.L. c. 32B, § 3A
- Stabilization Fund — G.L. c. 40, § 5B
- Pension Reserve Fund — G.L. c. 40, § 5D
- Unemployment Compensation Fund — G.L. c. 40, § 5E
- Ambulance Receipts Reserved — G.L. c. 40, § 5F
- Beach and Pool Receipts Reserved — G.L. c. 40, § 5F
- Golf Course Receipts Reserved — G.L. c. 40, § 5F
- Skating Rink Receipts Reserved — G.L. c. 40, § 5F
- Waterways Improvement Fund — G.L. c. 40, § 5G G.L. c. 60B, § 2(i)
- Conservation Fund — G.L. c. 40, § 8C
- Recycling Commission Fund — G.L. c. 40, § 8H
- Building Insurance Fund — G.L. c. 40, § 13
- Workmen's Compensation Fund — G.L. c. 40, § 13A
- Parking Meter Fees — G.L. c. 40, § 22A
- **Wastewater Disposal Receipts — G.L. c. 83, § 1G**
- Non-Resident Student Motor Vehicle Registration Fines Receipts Reserved — G.L. c. 90, § 3?
- Weight and Measure Fines Receipts Reserved — G.L. c. 98, § 29A
- Educational/Instructional Materials Trust Fund — G.L. c. 71, § 20A
- Cemetery Sale of Lots Fund — G.L. c. 114, § 15
- Cemetery Perpetual Care Funds — G.L. c. 114, § 25
- Spay and Neuter Deposits — G.L. c. 140, § 139A
- County Dog Fund — G.L. c. 140, § 172

MODEL MULTIPLE DEPARTMENTAL REVOLVING FUNDS ARTICLE AND VOTE

Article 5 - DEPARTMENTAL REVOLVING FUNDS AUTHORIZATION. To see if the town will vote to authorize revolving funds for certain town departments under Massachusetts General Laws Chapter 44, § 53E½ for the fiscal year beginning July 1, 2008, or take any other action relative thereto.

Motion – That the town establish revolving funds for certain town departments under Massachusetts General Laws Chapter 44, § 53E½ for the fiscal year beginning July 1, 2008, with the specific receipts credited to each fund, the purposes for which each fund may be spent and the maximum amount that may be spent from each fund for the fiscal year (if optional information included (shaded columns) then insert: the disposition of the balance of each fund at the end of the current fiscal year and restrictions on expenditures that may be made from each fund), as follows:

<u>Revolving Fund</u>	<u>Authorized to Spend Fund</u>	<u>Revenue Source</u>	<u>Use of Fund</u>	<u>FY09 Spending Limit</u>	<u>Disposition of FY08 Fund Balance (Optional)</u>	<u>Spending Restrictions or Comments (Optional)</u>
Hazardous Materials	Fire Chief	Fees charged to persons spilling or releasing hazardous materials	Training and special equipment needed to respond to hazardous materials incidents	\$15,000	New fund	
Title V Inspection	Board of Health	Septic system inspection fees	Salaries of inspectors or contractual services related to septic system inspections	\$40,000	Balance available for expenditure	
Teen Center	Teen Center Director	Teen center snack bar receipts, dance admission charges, activity charges and receipts	Expenses, supplies and contractual services to operate Teen Center	\$15,000	Balance available for expenditure	Fund may not be spent for salaries of more than one part-time employee. Full-time director salary funded in annual budget
Senior Citizens Bus	Council on Aging	Bus user fees	Salaries, expenses, contractual services to operate bus service to senior citizen housing developments and debt service on bus purchased for program	\$50,000	\$5,000 of balance available for expenditure, remainder to revert to General Fund	Fund may not be spent for salaries of more than two full-time employees, or any capital item over \$500
TOTAL SPENDING²				\$120,000		

¹ FY09 per department spending limit is \$100,000 (1% of FY08 levy of \$10,000,000)

² FY09 total spending limit is \$1,000,000 (10% of FY08 levy of \$10,000,000)

SPECIAL FUNDS FOR DEPARTMENTAL PROGRAMS AND SERVICES

Special fund	Local acceptance	Town meeting/ City council action	Department/ activities	Municipal salaries	Capital items/ debt service	Spending ceiling	Revenue source	Interest	Fund balance	Other accounting procedures	Other
Receipts reserved G.L. c. 40, § 5f	No	Appropriation	Ambulance service Recreation facility (gym, pool, golf course, beach, skating rink)	Yes	Yes	None	User fees	General fund	Carries forward to next FY		Appropriations from available funds (actual receipts)
Parks and recreation G.L. c. 44, § 53d	Yes	None, unless Annual authorization required by by-law/ ordinance	Parks and recreational programs and services	Part-time, seasonal, temporary only	Yes, if in direct support of/ necessary to program operation	None	Participation fees and program receipts	Revolving fund	Balance of \$10,000 or less carries forward to next FY Balance over \$10,000 closes to general fund		Expenditures from available funds (actual receipts)
Offset receipts G.L. c. 44, § 53e	Yes	Appropriation	Any departmental operating budget	Yes	No	Prior FY actual receipts unless prior approval of boa	Department programs' service User fees	General fund	Close to general fund at end FY	Deficit raised in next FY levy if not covered	Appropriations from estimated receipts
Departmental revolving G.L. c. 44, § 53e½	No	By 7/1 annual authorization of annual town meeting or town/city council (with mayor's recommendation) After 7/1 authorization vote of special town meeting or town/city council (with mayor's recommendation) only if new revenue not in tax rate	Any department activity/ program Except water/ sewer/ hospital	Yes	Yes, if within scope of authorization	1% of prior year's tax levy	Departmental receipts generated by activity or program	General fund	Carries forward to next FY if reauthorized If not, closes to general fund unless transferred to another dept. Revolving fund	Full time employee benefits charged to revolving fund Spending ceiling on all dept. Revolving funds of 10% of prior year's levy Fund ceiling may be raised during year by selectmen/ with FINCOM approval or city council/ with mayor/manager approval	Expenditures from available funds (actual receipts) Spending ceiling on all dept. Revolving funds of 10% of prior year's levy Fund ceiling may be raised during year by selectmen/ with FINCOM approval or city council/ with mayor/manager approval
Enterprise G.L. c. 44, § 53f½	Yes for each enterprise	Appropriation	Utility, health care, recreation, transportation facility	Yes	Yes	None	All revenues derived from enterprise activity	Enterprise fund	FY operating surplus closes to retained earnings	GAAP Fixed asset accounting Retained earnings deficit raised in next FY levy if not covered	Appropriations from estimated revenues and available funds Retained earnings available for appropriation only after boa certification

September 2008

Workshop C**Compensation Benefit and Employment Issues****Case Study 1
Senior Work-off Abatement
Issues**

The town of Seniorville recently adopted GL c. 59, §5K, a local option statute otherwise known as the senior work-off abatement. Pursuant to this statute, Seniorville has established a program to allow persons over the age of 60 to volunteer their services to the municipality in exchange for which Seniorville will reduce their real property tax bills. Under Chapter 59 Section 5K, the maximum hourly rate of compensation is the State minimum wage which is \$8.00 per hour in 2008. Federal minimum wage is currently \$6.55. The maximum allowable abatement that may be earned under GL c. 59, §5K is \$750.

Ann, who is 61, works full-time as a librarian in Seniorville's public library. She owns a home in Seniorville with Bob, who is the same age and on short-term disability from his job at a construction company. They live next door to Carmen, who is 83 and unable to work. Ann's and Bob's adult son, Dave, is living at home while he attends graduate school.

1. Is Ann eligible to work in Seniorville's senior work-off abatement program?
2. Is Bob eligible to work in Seniorville's senior work-off abatement program?
3. Seniorville wants to pay an hourly rate of \$6.50 per hour as compensation to eligible persons who participate in the senior work-off abatement program. Can Seniorville do this?
4. Is the compensation participants earn in the senior work-off abatement program subject to income tax?
5. Can Dave perform the volunteer work as Bob's proxy?
6. Can Ann transfer her abatement to Carmen's tax bill?

7. If Ann provides volunteer services in the current fiscal year, but after the actual bills are issued, can they be credited toward this fiscal year's tax bill?

8. Can Seniorville provide any other type of work-off program besides the senior work-off abatement provided under GL c. 59, §5K?

**Case Study 2
Compensatory Time Issues**

The City of Swapsit has an overtime and comp time ordinance which provides that non-managerial employees are entitled to overtime at time and one half for authorized hours worked in excess of 40 in any given week, or, such employees may opt to receive compensation time on an hour for hour basis, with no cap or limitation specified as to when the time must be taken, except that comp time taken must be approved by the department head. No special purpose article or operating year budget item includes this accruing liability. The city has traditionally put extra money in the salary accounts to cover anticipated unused comp time for employees it knows will retire in that year. John Jones, a supervisory employee of the DPW, has submitted his resignation and has accumulated 300 hours of unused comp time according to his records. He claims that his time was approved by a former DPW Director. Neither the DPW nor the City Auditor has any record of the time earned, and no money was budgeted for this expense.

The City Council appoints and has negotiated a contract with the City Auditor under GL c. 41, §108N, which does not provide for overtime or comp time. The City Manager has allowed the City Auditor to earn and take comp time in accordance with the ordinance and the City Auditor has officially accumulated 450 hours of unused comp time to date, with the express approval of the City Manager. The City Council has

learned of this arrangement and the City Solicitor has notified the City Auditor that the comp time agreement was not authorized under the ordinance, the personal services contract or by vote of the City Council and that she must forfeit vacation or otherwise repay the city for the time already taken and forfeit the remaining hours of unused time.

School department employees are specifically excluded from the ordinance. The school committee of Swapsit has not adopted an overtime or comp time policy by any formal vote. The Principal of the high school has worked out an arrangement with the Superintendent to receive comp time on an hour for hour basis for hours in excess of 35 per week worked during the school year. The Principal has accumulated 600 hours of comp time under this arrangement, and has not taken any comp time days off with pay. He is retiring at the end of the school year and has advised the superintendent of his request to be paid the time in a lump sum based on his current salary. No provision was made in the budget for covering this liability.

1. Is the city protected from liability to pay unused comp time to Jones under GL c. 44, §31, which prohibits a city department from incurring a liability in excess of appropriation, or for any other legal reason?
2. What legal arguments does the City Auditor have that his comp time arrangement is a binding obligation of the city?
3. Must the School Committee honor the agreement between the Superintendent and the Principal? May the School Committee Honor the agreement? Where can the school committee get the money if there are insufficient unencumbered funds in its budget to pay for it?

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Compensation Benefit and Employment Issues continued from page 22

Case Study 3 Police and Fire Injury Leave Issues

Firefighter Erwin suffered a 3rd degree burn on his arm and severe smoke inhalation in the course of responding to a 2-alarm fire negligently started by a contractor installing a central air conditioning system in a single-family residence in the town of Swelterburg. He was taken to the hospital emergency room for evaluation and treatment and was later admitted to the hospital's trauma unit. He was hospitalized for 17 days and out of work for a total of 123 days.

GL 41, §100 authorizes the reimbursement of an injured firefighter or police officer's medical costs. GL 41, §111F requires that an injured firefighter or police officer be paid his regular salary while out on injury leave. Swelterburg has a disability insurance policy to cover it for losses due to payment of medical costs and compensation under GL 41, §§100 and 111F. In addition, two years ago, Swelterburg established a stabilization fund under GL c. 40, §5B, the purpose of which is to pay medical expenses and compensation of firefighters and police officers on paid injury leave.

1. Are payments to Firefighter Erwin under GL 41, §111F subject to income tax?
2. Can Swelterburg structure its disability insurance policy to pay benefits directly to Firefighter Erwin?
3. Can Swelterburg apply its disability insurance policy payments to reimburse the fire department's salary account?
4. Will Firefighter Erwin accumulate sick and vacation time while on paid injury leave?
5. Could the Swelterburg fire department have hired a replacement employee for Firefighter Erwin and paid that employee out of the departmental salary account?

6. Can Swelterburg or Firefighter Erwin recover tort claim damages from the contractor who caused the fire?

7. Who would pay the attorneys fees if Firefighter Erwin filed suit to recover damages from the contractor who caused the fire?

8. Can Swelterburg pay the attorney it hires to represent it in recovering tort claim damages from any settlement or judgment proceeds it receives?

Case Study 4 Special Detail Issues

The town of Bilkam has a police force of 5 full-time officers and 10 part-time officers. It regularly has 2 or 3 road excavation projects underway at any given time and requires that a road crew use a police officer or officers on a special detail to direct traffic at the work site. The police collective bargaining agreement provides that full time officers will be offered special details on a rotating basis, and if no full-time officer is available, part-time officers will be offered them in the same manner. The contract calls for paid details at a fixed rate, which is usually more than 1.5 times the officer's salary, with a minimum of 4 hours guaranteed.

The contract is silent on the procedure if no town officer is available, but the consistent practice of the police department has been to contact neighboring towns to obtain the use of an off-duty officer to perform the detail. The town collects a fee from the governmental or private party doing the excavation, which includes the special detail rate plus a 10% administrative fee for the town. When a detail is performed by another town's officer, the fee is deposited by the Bilkam treasurer into an escrow account and a town of Bilkam check for that amount is forwarded to that town, which pays the officer from that town's special detail revolving fund, under GL c. 44, §53C. When the town's own officer performs the detail, the fee is deposited into the

town's account and paid from Bilkam's special detail fund.

Recently the new accountant for a neighboring town refused to process payment through its revolving fund claiming that since the services were performed in Bilkam payment of the officers should be Bilkam's responsibility. The neighboring town has a higher special detail rate and its officers were claiming they were entitled to its paid detail rate when performing details in Bilkam. In addition, the Commonwealth has refused to pay the 10% administrative fee for details at excavation jobs performed by its private contractors.

1. Which town should be paying the out of town officers performing special details in Bilkam?
2. What is the proper rate for paying the out of town officers performing special details in Bilkam?
3. Can the Bilkam police chief require its police officers to perform the special details as mandatory overtime, even if the town continues to accept the fee from the excavating parties?
4. What town is responsible for injuries suffered when an out of town officer is performing a special detail for Bilkam?
5. Can the town charge the special detail fee, including the 10% administrative fee, to the private contractor performing an excavation job in Bilkam for the Commonwealth?

Case Study 5 Special Personal Services Contract Issues

The town of Richland is negotiating many new employment contracts. It is in the process of hiring a director of its department of public works who wants an employment contract for a term of 5 years and an arrangement whereby the town will pay for repairs, insurance and gas for his personal vehicle which he will use on town business. The town

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Compensation Benefit and Employment Issues continued from page 23

is also in the process of hiring the former building inspector from the town of Brokefolk who was eliminated abruptly last year and would now like to negotiate severance pay and a termination clause into his employment contract to avoid a repeat situation.

The town also just received a grant from the Department of Conservation and Recreation and is interviewing to hire a conservation agent. Its most qualified applicant wants a 3-year contract and reimbursement for the cost of attending a program on environmental management run by the EPA each summer. A member of the board of assessors was recently re-elected to her 5th term and wants longevity pay that recognizes her years of service to Richland.

The Board of Selectmen just hired a new executive secretary who wants reimbursement for the expense of renewing her status as a notary public. The Board of Selectmen is also about to appoint a temporary collector to fill the vacancy created when the elected collector died suddenly at the beginning of the fiscal year. The appointed temporary collector wants a salary increase over that provided to the elected collector. And, finally, the town has recently agreed to extend the employment contract for its chief of police to June 30, 2011.

1. Can Richland agree to a multi-year employment contract with the director of the department of public works and arrange to pay for repairs, insurance and gas for his personal vehicle which he will use for town business?

2. Can Richland add severance pay and a termination clause to the building inspector's employment contract?

3. Can Richland agree to the conservation agent's multi-year contract and reimbursement requests?

4. Can Richland agree to reimburse the executive secretary for the expense of renewing her status as a notary public?

5. Can Richland accommodate the board member's request for longevity pay?

6. Can Richland accommodate the appointed temporary collector's request for a salary increase over that given to the former, elected collector?

7. Can Richland extend the police chief's employment contract for 3 years? ■

Top left: Kathleen Colleary and Gary Blau. Top right: Donna Quinn, Sharyn Adelman, Angela Franklin, with Deputy Commissioner Robert Nunes. Bottom left: Bureau of Accounts field reps Maura O'Neill and Diane Dziura. Bottom right: Kathleen Colleary, Gary Blau and Dan Murphy.



Current Developments in
Municipal Law

2008

Court Decisions

Book 2 of Municipal Law Set

Seideman v. City of Newton
23 Mass. LRep 274 [2:78]

- 10 taxpayer action challenging Newton's use of CPA monies to add to or replace facilities at two parks used for recreation before adoption of CPA
- Superior Court held projects did not create land for recreational use
- Appeal argued at Supreme Judicial Court on 9/2/2008

South Street Nominee Trust v. Assessors of Carlisle

70 Mass. App. Ct. 853 (2007) [2:81]

- Chapter 61 forest land withdrawal penalty tax
- Decision expanded exemption from penalty tax
- Effect of Chapter 394 of the Acts of 2006

Cornish v. Assessors of Carlisle

ATB (May 12, 2008) [2A:15]

- Chapter 61 forest land withdrawal penalty tax
- Change of ownership, person to be assessed
- Effect of Chapter 394 of the Acts of 2006

Kabat v. Assessors of Cunningham,

ATB (April 2, 2008) [2A:29]

- Assessment of trailer on property
- Treated as real property
- Registered vehicle but being used for temporary housing

Ligor v. Assessors of Wellesley
ATB (May 8, 2008) [2A:53]

- Assessors' right to inspect property
- ATB order for inspection
- Non-compliance by landowner
- Dismissal of appeal

Roketenetz v. Assessors of Lynnfield

72 Mass. App. Ct. 907 (2008) [2:75]

- Assessors' right to inspect property
- Non-compliance & dismissal at ATB
- Constitutional challenge as unreasonable search of home

Stone v. Assessors of Wakefield

ATB (May 27, 2008) [2A:101]

- Prior ATB decision for taxpayer
- Burden of proof on subsequent ATB appeal
- G.L. c. 58A, §12A shift to board of assessors
- Burden of production
- Burden of persuasion

Zitzkat v. Assessors of Truro

ATB (July 25, 2008) [2A:106]

- Revision of assessment
- Unintentionally valued or classified incorrectly
- Assessors mistaken as to habitability

Forges Farm Inc. v. Assessors of Plymouth
ATB (Oct. 18, 2007) [2A:22]

- Charitable exemption sought on undeveloped parcel not accessible to public
- ATB ruled no charitable exemption for passively holding such land
- 61B classification or conservation restriction appropriate tax relief vehicle

Brookline Conservation Land Trust v. Assessors of Brookline
ATB (June 5, 2008) [2:1]

- Charitable exemption denied for conservation land to which public has no effective access
- Trust benefited only nearby parcels
- Not a sufficiently large or indefinite class of beneficiaries to warrant a charitable exemption

Mary Ann Morse Healthcare Corp v. Assessors of Framingham
ATB (August 19, 2008) [2A:57]

- Assisted living facility for mentally impaired not charitable
- Did not accept Medicaid, charged \$4,100 – \$5,900 monthly & left units vacant rather than reduce charges
- Did not lessen governmental burden
- Residents had full rights of tenants under G.L. c. 19D and thus tenants, not non-profit entity, occupied property

Kings Daughters & Sons Homes v. Assessors of Wrentham
ATB (September 25, 2007) [2A:43]

- Assisted living facility was not charitable because it benefited too limited a class
- Did not accept Medicaid patients
- Provided financial assistance of less than 4% of net income
- Required assets of over \$200,000

New Habitat Inc v. Tax Collector of Cambridge
451 Mass. 729 (2008) [2:45]

- Non-profit providing housing & services to brain-injured patients entitled to charitable exemption
- High fees not significant when purpose close to traditional charitable purpose

Archdiocese of Boston v Scituate, Superior Court (July 2, 2008) [2:76]

- Archdiocese closed parish in 2004
- Scituate taxed for 2006 & 2007
- Declaratory relief in Superior Court & ATB appeal for 2007
- 2006 dismissed due to failure to file abatement application
- 2007 not dismissed because of timely abatement & ATB appeal

WB&T Mortgage Company Inc. v. Assessors of Boston
451 Mass. 716 (2008) [2A:92]

- Upheld pro rata tax under G.L. c. 59, § 2C when charity sells to non-exempt
- § 2C assessment a tax
- Not disproportionate
- Exemption due to legislative grace & may be revoked
- § 2C reasonable method of terminating exemption
- Sale price reasonable way to value

RNK, Inc. v. Assessors of Bedford
ATB (July 2008) [2A:87]

- ATB dismissed appeal concerning personal property tax where:
 1. Lessee and not the assessed owner filed ATB appeal
 2. Lessee was responsible for taxes under lease agreement

Smith v. Assessors of Fitchburg,
ATB (January 2008) [2A:94]

- ATB upheld assessment of privately owned hangars at municipal airport
- Hangars did not serve a public purpose
- Assessment permitted under G.L. c. 59, § 2B

Northeast Generation Co. v. Assessors of Northfield and Erving
ATB (April, 2008) [2A:72]

- Assessment of hydroelectric facility under G.L. c. 59, § 2B
- Does not include land under Connecticut River
- Power plant could only draw water and did not use or occupy the land

City of Quincy v. Commissioner of Revenue
ATB (November 2007) [2A:81]

- City challenged its reimbursement for state owned land
- Commissioner's valuation upheld
- Commissioner's methodology reasonable and properly implemented

City of Somerville v. Somerville Municipal Employees Association
451 Mass. 493 (2008) [2:88]

- Supreme Judicial Court upheld Somerville Mayor's appointment of Director of Veterans' Services
- Mayor's appointment was not subject to collective bargaining or arbitration

Bell Atlantic Mobile v Commissioner of Revenue
451 Mass. 280 (2008) [2B:1]

- Wireless telecom not a centrally valued telephone company
- Local assessors must value and assess the taxable personal property of companies

In Re MCI Consolidated Central Valuation Cases
ATB (March 13, 2008) [2B:6]

- Commissioner's reproduction cost mass appraisal method generally upheld
- Construction work in progress & dark fiber should be included in value
- Decision on appeal

In Re Verizon New England Consolidated Appeals

ATB Order (March 3, 2008) [2B:75]

- ATB ruled poles & wires of incorporated telephone company located over public ways are taxable
- Based on G.L. c. 59, §18, First
- Despite earlier SJC cases to the contrary based on G.L. c. 59, §18, Fifth

King Crusher, Inc. v. Commissioner of Revenue
ATB (January 15, 2008) [2B:35]

- Corporation's business of crushing cars and selling remnants to manufacturers not manufacturing process
- Did not cause a sufficient degree of change or refinement
- Corporation did not qualify as a manufacturing corporation

District Attorney for NW District v. Eastern Hampshire Division of District Court
452 Mass 199 (2008) [2:15]

- Proceeds from forfeiture of property gained from or used unlawfully in drug activities is properly directed to law enforcement trust funds
- For use of DAs, or AG and investigating local police department

Silva v. City of Attleboro
72 Mass App Ct 450 (2008) [2:85]

- Charge to issue burial permit an improper tax
- Issuance of permits was a shared public benefit without sufficient individual benefit
- Payments were involuntary

Current Developments in Municipal Law

2008

Legislation & Agency Decisions

Book 1 of Municipal Law Set

Property Tax Classification

Chapter 169 of the Acts of 2007
Effective 11/16/2007 [1:12]

- Repeals St. 2004, c. 3, § 1
- Restores tax allocation formula under G.L. c. 58, § 1A to 175% maximum shift to business taxpayers

Veterans Organizations

Chapter 61 of the Acts of 2008
Effective 6/17/2008 [1:13]

- Adds local option G.L. c. 59, § 5, Clause 5C
- Allows property tax exemption of up to \$1.5m worth of real and personal property of organization

Employee Compensation

Chapter 80 of the Acts of 2008
Effective 7/13/2008 [1:14]

- Amends G.L. c. 149, §§ 27-27H, 150 & 151 (prevailing wage and prompt payment of wages laws)
- Requires award of treble damages and litigation costs for prevailing employee

Annual Town Meetings

Chapter 85 of the Acts of 2008
Effective 7/14/2008 [1:18]

- Amends G.L. c. 39, §§ 9 and 9A
- Allows annual town meetings and elections to begin in June
- Annual meetings must still conclude by 6/30

Green Communities Act

Chapter 169 of the Acts of 2008
Effective 7/2/2008 [1:19]

- 7 Regional Greenhouse Gas Initiative (RGGI) Reimbursement
- Reimburses cities and towns for lost property tax revenues from devaluation of generating plants by RGGI regulation of carbon dioxide emissions
- Payments from trust fund of permit auction proceeds
- Applies to coal-fired plants only (c. 312, § 4 of 2008)

State Corporate Tax Reforms

Chapter 173 of the Acts of 2008
Effective 7/3/2008 [1:25]

- Changes corporate taxation at state level
- Requires same business entity classification for state and federal tax purposes
- Eliminates differences between domestic and foreign corporations
- See TIR 08-11

Chapter 173 of 2008 (continued)

- §§ 2-10 & 101 Local Taxation of Business Corporations
- Conforms G.L. c. 59, § 16 and other c. 59 sections to state corporate tax reforms
 - Entities classified as corporations for state taxes usually treated as corporations for local taxes
 - Local tax treatment of some business entities may change
 - Effective 1/1/2009.

Chapter 169 of 2008 (continued)

- § 50 Energy Improvement Debt
- Amends G.L. c. 44, § 7, Clause 3B
 - Allows borrowing inside debt limit for energy conservation or alternative energy improvements to buildings, facilities or property owned or leased by municipality
 - Increases term for energy related loans from 10 to 20 years

Chapter 173 of 2008 (continued)

§ 97 Municipal Relief Commission

- 13 member legislative commission to study local revenue initiatives
- Study due 12/15/2008

FY2009 State Budget

Chapter 182 of the Acts of 2008
Effective 7/1/2008 unless noted [1:29]

- §§ 13, 74 & 116 Community Preservation Act (CPA) Recording Fee Surcharges**
- Amends G.L. c. 44B, § 8
 - Requires separate fee and CPA surcharge for documents that need separate indexing for references to other documents
 - Reverses 2008 Appeals Court decision

Chapter 182 of 2008 (continued)

§ 14 Senior Property Tax Deferrals

- Increases cap on amount cities and towns may allow in gross receipts for Clause 41A deferral
- Maximum now tied to state circuit breaker income tax credit limit for single filers
- DOR makes annual cost of living adjustment in limit
- See IGR 08-208

Chapter 182 of 2008 (continued)

§ 15 Demand Fees

- Amends G.L. c. 60, § 15
- Allows charge for issuance of demand by collector of any amount up to \$30
- See Bulletin 2008-09B

Chapter 182 of 2008 (continued)

- New local option exemption for MA residents on active military duty outside US for 45 days
- 45 day waived for service members wounded or killed in armed conflict
- 1 vehicle registered for personal use exempt
- Delinquent taxpayers charged extra \$3 when excises sent to deputy collector for collection action
- Effective 1/1 after calendar year accepted

Chapter 182 of 2008 (continued)

§§ 16 & 117 Motor Vehicle Excise Exemptions

- Effective 1/1/2010
- Adds new local option exemption to G.L. c. 60A, § 1
- Adds new standing provision G.L. c. 60A, § 1 that applies to all excise exemption applications

Chapter 182 of 2008 (continued)

- New standing provision allows persons other than the qualified taxpayer to file excise application
- Spouse may apply if vehicle jointly owned
- Surviving spouse, executor or administrator may apply if qualifying taxpayer is deceased
- Effective for 2010 excises

Chapter 182 of 2008 (continued)

§ 17 Motor Vehicle Excise Payment Deferral

- Adds new local option G.L. c. 60A, § 9
- Gives MA guardsmen and reservists deployed outside MA, or dependents, 180 days after deployment ends to pay excise without interest or costs
- Similar to local option G.L. c. 59, § 5L for property tax payments

Chapter 182 of 2008 (continued)

- §§ 62-66 & 114 Regional Transit Authority (RTA) Assessments**
- Codifies current MBTA calculation of RTA members credit in their MBTA assessments using most recently audited RTA assessments as of 1/1
 - RTA member assessments now based on same audited assessments as MBTA credit

Chapter 182 of 2008 (continued)

§§ 77 Payment of Public Employees in Military Service

- Extends 2003 local option that required counties, cities, towns and school districts to pay employees in national guard or reserves on military leave of absence after 9/11/2001 their base salaries less military pay
- New sunset date of 9/11/2011

Chapter 182 of 2008 (continued)

§§ 100 Education Reform Waivers

- FY09 Ed Reform Waivers
- Allows DOR to adjust minimum required contribution for local & regional school districts for FY09
- Applications Due 10/1/2008
- See IGR 08-302

Chapter 182 of 2008 (continued)

§§ 112 Municipal Budget Commission

- 10 member commission on municipal budgeting and accounting practices
- Study due 12/31/2008

Intermunicipal Agreements

Chapter 188 of the Acts of 2008
Effective 7/18/2008 [1:45]

- Amends G.L. c. 40, § 4A
- Allows boards of selectmen and prudential committees to enter into agreements with state, county and local governments for joint activities

FY2008 Supplemental Budget

Chapter 302 of the Acts of 2008
Effective 8/8/2008 unless noted [1: 47]

- § 13 & 68 School Project Feasibility Studies
- Amends G.L. c. 70B, § 6
- Allows cities, towns and regional school districts to borrow for 5 years for feasibility studies required for School Building Authority school facility grants
- Debt outside limit and subject to G.L. c. 44
- Effective retroactive to 1/1/2008

Dairy Farm Preservation

Chapter 310 of the Acts of 2008
Effective 8/14/2008 [1:50]

- § 2 Optional Assessment of Farm Animal Excise
- Amends G.L. c. 59, § 8A
- Allows boards of selectmen or city/town councils with mayor's approval if required to place referendum before voters asking not to assess farm animal excise
- 2/3 vote of board/council to place on ballot

Environmental Bond Bill

Chapter 312 of the Acts of 2008
Effective 8/14/2008 [1:52]

- § 4 RGGI Reimbursement
- Amends § 7 of Green Communities Act, c. 269 of 2008
- Limits reimbursement to cities and towns with lower property tax revenues due to generating plant devaluation under RGGI emission control regulations to coal-fired plants
- Measures revenue reduction from FY2008

Chapter 312 of 2008 (continued)

§§ 7 & 8 Classified Farm & Recreational Land Option to Purchase

- Makes technical corrections to G.L. c. 61A, § 14 and c. 61B, § 9 from 2006 chapter land reforms (c. 394)

Chapter 312 of 2008 (continued)

§ 10 Sewer Assessments

- Adds G.L. c. 83, §§ 1A-1H
- Allows cities, towns and sewer districts that build sewer system to reduce or eliminate nutrient enrichment of water supply or surface waters to limit abutter's right to connect
- Requires adoption of G.L. c. 83, § 1A and approval by MA Department of Environmental Protection (DEP) of Comprehensive Water Resources Management Plan (CWMP)

Chapter 312 of 2008 (continued)

- Restricts connections to properties:
 1. within CWMP,
 2. with failed septic systems that are unable to be served by new septic or enhanced system under remedial use, or
 3. with 15% affordable housing units

Chapter 312 of 2008 (continued)

- Allows mandatory hook-up for abutters with enhanced systems under remedial use unless DEP approved monitoring and inspection plan in place
- Allows board of health to assess fee to fund inspections
- Allows connections after system operational based on capacity

Chapter 312 of 2008 (continued)

- Allows communities and districts to borrow for up to 50 years, or DEP approved useful life, whichever is shorter, for the system
- Allows temporary debt for 5 years
- Allows communities and districts to give property owners up to 50 years to pay any sewer betterments assessed to recover costs

Chapter 312 of 2008 (continued)

- **Allows special revenue fund for payments from property owners and earmarks monies for system construction, maintenance and operation**

Inspector General Advisory Procuring Outside Consultants

7/2008 [1:59]

- G.L. c. 44, § 53G allows special project revolving funds for fees charged applicants for local permits and approvals
- Funds limited to fees paid for certain applications to Zoning Boards of Appeals, Low and Moderate Income Housing, Planning Boards, Boards of Health and Conservation Commissions

IG Advisory (continued)

- Fees may be spent without appropriation to hire outside consultants to assist local board review the applications
- G.L. c. 30B applies to services of "outside consultants" hired using G.L. c. 44, § 53G revolving funds
- Local rules must also allow applicant to appeal choice of consultant

Municipal Fiscal Calendar

November 1

Taxpayer: Semi-Annual Tax Bill — Deadline for First Payment. According to M.G.L. Ch. 59, Sec. 57, this is the deadline for receipt of the first half semiannual tax bills or the optional preliminary tax bills without interest, unless bills were mailed after October 1, in which case they are due 30 days after mailing.

Taxpayer: Semi-Annual Tax Bills — Application Deadline for Property Tax Abatement. According to M.G.L. Ch. 59, Sec. 59, applications for abatements are due on the same date as the first actual tax installment for the year.

Taxpayer: Quarterly Tax Bills — Deadline for Paying 2nd Quarterly Tax Bill Without Interest.

Treasurer: Deadline for Payment of First Half of County Tax.

November 15

Treasurer: First Quarter Reconciliation of Cash.

DOE: Notify Communities/Districts of Any Prior Year School Spending Deficiencies. By this date, or within 30 days of a complete End of Year Report (see September 30), DOE notifies communities/districts in writing of any additional school spending requirements.

November 30

Selectmen: Review Budgets Submitted by Department Heads. This date will vary depending on dates of town meeting.

December 15

Taxpayer: Deadline for Applying for Property Tax Exemptions for Persons. If tax bills are mailed after September 15, taxpayers have 3 months from the mailing date to file applications for exemptions.

Accountant/Superintendent/School Committee: Submit Amendments to End of School Year Report to DOE. Last filing date to impact next year's Chapter 70 State Aid.

December 31

State Treasurer: Notification of Quarterly Local Aid Payments on or Before December 31.

Water/Sewer Commissioners: Deadline for Betterments to be Included on Next Year's Tax Bill (M.G.L. Ch. 80, Sec. 13; Ch. 40, Sec. 42I and Ch. 83, Sec. 27).

Selectmen: Begin to Finalize Budget Recommendation for Review by Finance Committee.

Assessors: Mail 3-ABC Forms to All Eligible Non-Profit Organizations.

Collector: Deadline for Mailing Actual Tax Bills. For communities using the annual preliminary billing system on a quarterly or semiannual basis, the actual tax bills should be mailed by this date.

January 1

Assessors: Property Tax Assessment Date. This is the effective date (not for exemption purposes) for statewide assessed value for all property for the following fiscal year.

January 31

DOE: Notify Communities/Districts of Estimated Net School Spending Requirements for the Next Year. As soon as the Governor releases the ensuing year's budget, DOE notifies communities/districts of the estimated NSS requirements. These figures are subject to change based on the final approved state budget.

February 1

Taxpayer: Deadline for Payment of 3rd Quarterly Tax Bill Without Interest. According to M.G.L. Ch. 59, Sec. 57C, this is the deadline for receipt of the 3rd Quarter actual tax payment without interest, unless the actual tax bills were mailed after December 31. If mailed after December 31, the actual tax is due as a single installment on May 1, or 30 days after the bills were mailed, whichever is later.

Taxpayer: Quarterly Tax Bills — Application Deadline for Property Tax Abatement. According to M.G.L. Ch. 59, Sec. 59, applications for abatements are due on Feb. 1 unless actual tax bills were mailed after December 31. In that case they are due May 1, or 30 days after mailing, whichever is later.

February 15

Treasurer: 2nd Quarter Reconciliation of Cash.

February 28

Finance Committee: Continue Budget Review and Develop Recommendations. This date will vary depending on dates of town meeting.

March 1

DOR/MDM-TAB: Notification of Cherry Sheet Estimates for the Following Year. (pending action taken by the Legislature) The Cherry Sheet is an estimate of: 1) Receipts: local reimbursement and assistance programs as authorized by law and appropriated by the General Court; and 2) Assessments: state and county assessments and charges to local governments. All amounts listed on the Cherry Sheet are estimates. Actual receipts and charges are determined based on detailed formulas or guidelines for each program. Cherry Sheets are posted on the DLS website and updated at each juncture of the state budget process.

Personal Property Owner: Submit Form of List. This is a listing of all personal property filed by the owner with the Assessors each year for the purpose of determining taxes in the next fiscal year.

Non-Profit Organization: Final Filing Date for 3-ABC Forms. These must be filed on or before March 1 (this deadline may be extended by the Assessors). In no event may the extension granted be later than 30 days after the tax bill is mailed.

March 31

State Treasurer: Notification of Quarterly Local Aid Payment on or Before March 31.



City & Town

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